

# HANDBOOK FOR CONNECTICUT BOARDS OF TAX REVIEW

A guide to Connecticut's municipal boards of tax review and their role in property tax administration



Edited by  
**Edward T. Dowling**

Institute of Public Service  
The University of Connecticut



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Storrs, Connecticut 06268



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## PREFACE

This edition of the Handbook for Connecticut Boards of Tax Review marks the fourth time the Institute of Public Service has published this Handbook. This edition constitutes a revision of earlier volumes entitled Property Tax Review at the Municipal Level: Practices in Connecticut and The Role of the Board of Tax Review by Dr. Rosaline Levenson, former Institute Staff member, now Professor of Political Science at Chico State University, California.

This publication is intended to assist members of boards of tax review to understand the property tax, property tax assessment and administration, and their duties and responsibilities as board of tax review members. It is not intended to be a substitute for the General Statutes but rather should be used in conjunction with the General Statutes.

The publication is divided into two parts, the first describing the nature of assessment review and its importance in the administration of the property tax. The second part relates to current assessment review practices in Connecticut, particularly those concerning the organization and operations of boards of tax review. The Appendices provide additional pertinent information on boards of tax review, including a digest of major court cases relating to property assessment review.

While every effort has been made to make the publication as complete and accurate as possible, the Institute of Public Service assumes responsibility for any errors of omission or commission.

Edward T. Dowling, Editor  
Extension Professor  
Institute of Public Service

Storrs, 1984



## **FOREWORD**

The lifeblood of a Connecticut municipality is the income made available through the general property tax. Although towns and cities obtain revenue by various means, such as license fees, sewer and garbage collection charges, and state or federal grants, property taxes provide the largest single source. Without the annual assessments imposed on land, buildings, business equipment, and other forms of real and personal property, a town or city would be hard pressed financially to provide the level of services required for the protection, education, and economic advancement of its people.

Yet regardless of how great its need for revenue may be, a municipality cannot arbitrarily tax the property or personal belongings of its inhabitants. Because of constitutional requirements for operation of American governmental units in accordance with due process of law, a municipality needs legal authority from the state to tax and must adhere to certain procedures. If it assesses the property of one taxpayer at a certain percentage of actual value, for example, the percentage used and the assessment procedures applied must be uniform throughout the town. Too, the municipality is required to notify the property owners of the assessment and must give them the right to appeal to higher authorities before the tax becomes final.

In Connecticut, a procedure known as assessment review is the citizen's guarantee that his property will be assessed in accordance with due process of law. The provision for assessment review is made at the local level by municipal agencies known as boards of tax review, which have their origins in the colonial period.

This publication has been prepared as a guide to both the general public and members of the various boards of tax review. It describes the powers and activities of the boards and discusses pertinent questions frequently arising in connection with assessment review operations. In considering the powers and functions of the boards, the publication makes specific references to appropriate sections of the General Statutes, and includes numerous Appendices containing reference material to help the boards in the exercise of their duties.

A word of caution is deemed appropriate at this point for members of boards of tax review who may be relying upon this publication to familiarize themselves with their powers and duties. While every effort has been made to check the accuracy of the publication, including having the manuscript read by persons knowledgeable in the field of property tax assessment, the publication is not a legal document and is no substitute for the General Statutes. Readers therefore are advised to consult the General Statutes while making use of the publication.

# **CHAPTER I: Municipal Boards As Review Agencies**

Boards of tax review are one of the oldest local government agencies in Connecticut, with a history extending back to the colonial period. Created by state law, the boards hold important powers affecting both the municipality and the taxpayer, yet paradoxically they constitute one of the lesser known municipal agencies. Most taxpayers are aware of the office of assessor or tax collector in their community; few, however, know anything about the board of tax review until perhaps they are directed to a board hearing following disagreement with the assessor. Even many board members themselves may know little about the office prior to election or appointment, and frequently learn about their functions and duties only after assuming office. Exactly what are boards of tax review? How did they develop? What is their function in local government?

## **BOARDS OF TAX REVIEW DEFINED**

Boards of tax review are official municipal agencies created to serve as an assessment review body for taxpayers who feel that the town or city assessor erred in the valuation of their property. The boards are not assessing agencies and do not determine the valuation of taxable property; that is the function of the assessors. The function of the boards, on the other hand, is best explained by the word 'review' in their title. They are review bodies and as such serve independently of the assessors.

As review bodies, the boards are the first level of appeal from actions of the assessor and their decisions are binding until an appeal is taken to the courts or until there is a change in valuation. The boards thus function at an intermediary level between the assessors and the courts.

No fees are charged for appeals taken to the boards and it is not necessary for a taxpayer to be represented by counsel. Since they are composed of laymen who generally are elected, the boards provide taxpayers with the opportunity to be heard by their own peers at no expense to themselves.

There are 169 boards of tax review in Connecticut, one in each town and consolidated town and city. Local units of government located within the boundaries of a town, such as unconsolidated cities, boroughs, and special districts, do not have boards of tax review. In these governmental units, the town assessor is responsible for assessment of all taxable property within the town and the town board of tax review handles all appeals.<sup>1</sup>

## HISTORICAL DEVELOPMENT

Establishment of the boards of tax review had its origin in the colonial period with enactment of the Code of 1650, which provided the legal basis of taxation in Connecticut's early history. At that time, municipal assessments consisted of three kinds of taxes: the property tax, a poll tax on all males over 16 years of age, and a "faculty" tax on artisans and traders. The poor were relieved from the obligation to pay these taxes and at first the selectmen held the power of abatement. In time, a special agency, called the board of relief, was created in each town to take such appeals. These boards of relief were the forerunner of today's boards of tax review, although their cases initially dealt only with the poor and others unable to pay their taxes.

In time, the duties of the boards of relief were expanded and they began hearing appeals from all taxpayers, not just the poor--a practice growing out of the American tradition that the taxpayer has the right to petition his government if he feels his taxes are too high or unjustly levied. Since their formation, the boards of relief were composed of elected citizens in keeping with the belief that taxpayers should have the opportunity to appeal their assessments not to a government official, but to one of their own peers.

These early American practices can also be traced to the colonial mistrust of government officials due to the early colonists' experiences under the English monarchy.

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<sup>1</sup>Section 7-328 of the General Statutes states, in part: "The territorial limits of (a) district shall constitute a separate taxing district, and the assessor or assessors of the town shall separate the property within the district from the other property in the town and shall annually furnish the clerk of the district with a copy of the list after it has been completed by the board of tax review of the town."

As one of the colonists' major complaints against the English King was that of taxation without representation, it was believed that relief from unjust taxes could be made impartially only by a disinterested person elected for the sole purpose of hearing appeals.

There also was another important reason for the election of the boards of relief. In the colonial period and the following century, when the United States was predominantly a rural nation, real property consisted chiefly of land, farms, farm equipment, cattle, livestock, homes, commercial buildings, factories, and small stores and businesses. Property at that time did not change hands very frequently, but often remained in the possession of the same family for generations. Moreover, the various forms of property were relatively easy to classify and evaluate, and the primary qualifications for such office holders as assessors and boards of relief were considered to be personal integrity and dedication to duty, rather than specialized knowledge. Election was deemed the best method of selection based upon these criteria.

By the end of the nineteenth century, these conditions had changed. The pace of industrialization began accelerating and the United States entered the urban age, with its corresponding changes in forms of property and new demands upon boards of relief. Because of the changing nature of the board's duties in subsequent years, their name was changed in the early 1940's to board of tax review, in recognition of the shift in emphasis from granting tax relief to that of providing tax review.

The poll tax on males and the faculty tax on artisans and traders have long since gone out of existence in Connecticut. The property tax, on the other hand, is still of major importance in the municipalities, and handling disputes over property assessments forms the major function of boards of tax review today. Thus from a colonial role of affording tax relief to those unable to pay, the boards in modern times have become essentially a review agency, hearing appeals and making decisions in all kinds of cases arising out of property tax assessments.



## CHAPTER II: Assessment Review in Connecticut

Assessment review relates to procedures involved in assuring that property valuations for purposes of taxation are made justly and equitably. It is an extended process which begins with the assessor and ends with the board of tax review. The process is of major concern to all Connecticut municipalities because of the state's heavy reliance upon revenue raised by the property tax.

### IMPORTANCE OF THE PROPERTY TAX

The significance of assessment review in Connecticut is attributable to the fact that the state is sixth in the nation in its degree of reliance upon the property tax. In one year alone the property tax brought in \$1,392.1 billion out of a total of \$2,384.1 billion received by the state's 169 towns and cities from all sources.<sup>1</sup> Currently, Connecticut with a per capita property tax of \$369 ranks sixth as compared with the national average of \$266. Consequently, without the annual assessments imposed on land, buildings, business equipment, and other forms of property,

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<sup>1</sup> Connecticut Public Expenditure Council, Connecticut Municipal Budgets, 1982-83. (Hartford: Connecticut Public Expenditure Council, 1983), p. 4.

few if any Connecticut towns or cities would be financially able to provide the level of services required, under existing state statutes, for the protection, education, and economic advancement of its people.

Such a heavy reliance upon one source of revenue as that of the property tax places an unusually large burden upon boards of tax review. Few property owners have the funds necessary to contest an assessor's decision in court; they consequently must rely upon their local board of tax review to handle their grievances.

Because of the existence of just one level of appeal prior to a court hearing, the Connecticut boards of tax review play an important role in municipal government. In 1970, for example, the 169 boards heard 8,516 appeals and reduced the lists of 4,657 taxpayers. The total reduction came to \$32,324,625. At the same time, the boards increased 2,528 lists giving the total grand list of all municipalities an increase of \$20,508,386.<sup>2</sup> Table 1 shows the average number of working days of board members, their compensation, and the number and amount of lists reduced or increased from 1920 to 1970. As can be seen, the volume of appeals has not greatly changed over the years, but the amount of reductions and increases made by the boards jumped sharply from 1960 to 1970, indicating the high rise in property valuation.

## ASSESSMENT PROCESS

A detailed assessment process is required before the board of tax review is able to sit as a review body in Connecticut's towns and cities. The process, repeated annually, starts when the municipal assessor or board of assessors prepares an official listing of all taxable property in the community. The listing is known as the Grand List, and the total assessed valuation of all taxable property in the Grand List becomes the municipality's tax base.

The tax rate on the taxable property is determined by two factors: (1) the tax base (total assessed valuation of the Grand List) and (2) the total amount of money which must be raised by the property tax to meet municipal expenses during the ensuing fiscal year, as established by the municipality's legislative body; this is known as the Grand Levy. To arrive at the tax rate, the amount of money to be raised from the property tax is divided by the current tax base and may be expressed by the following formula:<sup>3</sup>

$$\frac{\text{Grand Levy}}{\text{Grand List}} = \text{Tax Rate}$$

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<sup>2</sup>Municipal Tax Division, State Tax Department, December, 1971.

<sup>3</sup>Handbook for Connecticut Assessors (Storrs: Institute of Public Service, University of Connecticut, 1978), p. 10.

TABLE 1  
WORKLOAD AND REMUNERATION OF CONNECTICUT BOARD OF TAX REVIEW, 1920-1970  
(By County)

Year	No. of Working Days of Each Member <sup>a</sup>	Compensation Per Day	No. of Appeals for Review	No. of Lists Reduced	Amount of Reduction	No. of lists Increased	Total Amount of Increase
1970	8	\$23.05	8,516	4,647	\$32,324,625	2,528	\$20,508,386
1960	9	15.55	10,532	4,840	11,850,747	1,402	4,931,305
1950	9	9.60	5,809	3,337	6,919,465	1,055	1,969,262
1940	9	5.82	7,884	4,534	5,592,839	1,133	1,093,162
1930	8	5.09	8,962	4,284	9,133,901	1,089	1,441,316
1920	8	4.17	7,894	3,919	10,325,657	1,017	1,212,808

<sup>a</sup>Arithmetic average.

Source: Municipal Tax Division, State Tax Department, records from 1920 to 1970.

The tax rate is generally expressed in Connecticut in terms of mills or thousandths of a dollar. The rate indicates the Grand Levy as a percent of the Grand List, and expresses the taxpayer's share of the tax load as a percent of his share of the Grand List. The taxpayer's bill, or the amount of money he must pay to the municipality, is determined by multiplying the assessed value of his taxable property by the current tax rate of the community.

In Connecticut, property is assessed as it exists on the assessment day, which is October 1. Both real and personal property are subject to taxation. Real property refers to land and all improvements permanently attached thereto and may be classified as urban or rural. Personal property, on the other hand, pertains to other taxable kinds of tangible property. The assessor must complete and file the Grand List with the town clerk by January 31, unless otherwise provided by law.

The Grand List is then processed by the board of tax review and filed with the town clerk. The town clerk, in turn, completes his or her portion of work connected with the Grand List by April 15. The tax rate then is set by either the board of selectmen, board of finance, or town or city council.

Determining the assessed value of each item of taxable property in a municipality is the most complex part of arriving at a property owner's tax bill. The property tax is so related to property values that it is often referred to as an ad valorem tax, i.e., a tax based upon the value of that which is taxed. The rule of valuation written into Connecticut law for all property except that classified as farm land, forest land, or open space, is one of fair market value. The law states: "The present true and actual value...shall be deemed by all assessors and boards of tax review to be fair market value thereof and not its value at a forced or auction sale."<sup>4</sup>

In order to provide a conservative basis for assessment, Connecticut assessors generally follow the practice of placing a property's valuation on a percentage of its market value, a figure known as the assessment ratio. This practice has been permitted by the courts since 1876,<sup>5</sup> the courts insisting in the past only that, when applied, it be uniform throughout the community. In 1957, however, the Connecticut Supreme Court ruled in Ingraham Co. v. Bristol that this long-standing practice of assessing property at a fraction of its actual value was improper in view of the state statute.<sup>6</sup> The Ingraham decision led in 1959 to enactment of legislation that legalized the use of the assessment ratio, a practice which, as the court itself

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<sup>4</sup>Section 12-63, General Statutes.

<sup>5</sup>Monroe v. New Canaan, 43 Conn. 309. See also Randell v. Bridgeport, 63 Conn. 321 (1899).

<sup>6</sup>Section 12-63, General Statutes.

recognized, had been tolerated for so long a time it "acquired the respectability of assumed legality."<sup>7</sup>

The practice of placing a property's valuation on a percentage of its market value not exceeding 100 percent of valuation is now required by law,<sup>8</sup> to be 70% of fair market value. Market value has been accepted by the Connecticut Association of Assessing Officers as the amount of money for which property may be exchanged (a) within a reasonable period of time and (b) under conditions in which both parties to the exchange are willing, able, and reasonably well-informed.<sup>9</sup>

The courts have ruled on what is fair market value,<sup>10</sup> but economic, legal, social, and physical conditions frequently change and market value fluctuates accordingly. Three common gauges used in Connecticut to measure the value of property are sales of comparable properties, reproduction cost less depreciation, and capitalization of income.<sup>11</sup> The assessors often use two or more of these methods to verify and check their valuations.

## RIGHT OF APPEAL

The work of boards of tax review begins when a taxpayer wishes to contest the assessment placed upon his property. The taxpayer's first appeal is to the board of tax review in the town or city where the property is located.<sup>12</sup> There is no cost involved in this appeal procedure; all that is necessary if the taxpayer has fulfilled the statutory requirements of submitting a list of his property to the assessors, if so required by law, is for him to make an

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<sup>7</sup> Ingraham Co. v. Bristol, 144 Conn. 374, 378. The case overrules Randell v. Bridgeport. The Ingraham decision was taken to the United States Supreme Court in January, 1960, but the high court denied the petition that it take jurisdiction.

<sup>8</sup> Sections 12-42, 12-64, 12-71, 12-111, 12-115, and 12-116. General Statutes.

<sup>9</sup> Handbook for Connecticut Assessors, p. 10.

<sup>10</sup> See Ingraham Co. v. Bristol, 144 Conn. 374 (1957); Connecticut Savings Bank v. New Haven, 131 Conn. 575 (1945); Portland Silk Co. v. Middletown, 125 Conn. 172 (1939); Lomas & Nettleton Co. v. Waterbury, 122 Conn. 228 (1936); Ford v. Dubiskie & Co., 105 Conn. 572 (1927); Bridgeport Brass Co. v. Drew, 102 Conn. 206 (1925); Underwood Typewriter Co. v. Hartford, 99 Conn. 329 (1923); Dennis et al. Appeal, 72 Conn. 369 (1899); Randell v. Bridgeport, 63 Conn. 321 (1893).

<sup>11</sup> Handbook for Connecticut Assessors, p. 11.

<sup>12</sup> Section 12-111, General Statutes.

appearance before the board at one of its meetings and offer or consent to be sworn and give facts required by the board, either orally or in writing, or both. The taxpayer may or may not be represented by an attorney.<sup>13</sup> If not satisfied with the board's decision, he has recourse to the state courts.<sup>14</sup>

The boards derive their legal authority from the General Statutes, municipal charter, or from special act of the General Assembly. In addition, they are bound by the decisions of federal and state courts. The courts also have affected assessment policy in their interpretations of the question of fair market value. They have elaborated on the statutes in defining various elements of market value.<sup>15</sup> At the same time, they have expounded on appeals procedures in explaining when a taxpayer is aggrieved,<sup>16</sup> in defining the jurisdiction of the courts in appeals procedures,<sup>17</sup> and in giving the legal remedy for wrongdoings of assessors and boards of tax review.<sup>18</sup>

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<sup>13</sup>Section 12-113, General Statutes.

<sup>14</sup>Section 12-118, General Statutes.

<sup>15</sup>Bridgeport Hydraulic v. Stratford, 139 Conn. 388 (1953).

<sup>16</sup>Resnick v. New Haven, 12 Conn. Supp. 47 (1943).

<sup>17</sup>Power v. Old Saybrook, 12 Conn. Supp. 382 (1944).

<sup>18</sup>Stamford Gas & Electric Co. v. Stamford, 6 Conn. Supp. 505 (1938).

## **CHAPTER III: Nature of Board of Tax Review Activities**

Formal duties and responsibilities of boards of tax review are prescribed in different sections of the General Statutes.

### **POWERS OF THE BOARDS**

The boards have been delegated eight distinct powers any of which they may exercise at their own discretion. They may:

1. Administer oaths in cases coming before them (S.1-24).
2. Correct any clerical omission or mistake in the assessment of taxes (S.12-60).
3. Add to the assessment list the name of any person omitted by the assessors who owns taxable property in the town (S.12-111).
4. Increase the number, quantity, or amount of taxable property in the list of any person (S.12-111).
5. Reduce the list of any person by reducing the valuation, number quantity, or amount of any item (S.12-113).
6. Make a supplemental list of any taxable property which has been omitted by the assessors (S.12-115).
7. Add 10 percent to the value of any additions (S.12-111) or supplemental lists (S.12-115) as penalty.

8. Equalize and adjust the valuations and assessment lists of the town, where applicable (S.12-111).

Besides these discretionary powers, the boards have been given statutory duties which are mandatory. They must:

1. Meet at least three times annually during the month of February, unless otherwise specified by special act, and at least once annually during the month of September solely for appeals of motor vehicles (12-110).
2. Hear appeals of persons claiming to be aggrieved by the doings of the assessors (S.12-111).
3. Publish or post notices prior to their meetings (S.12-110).
4. Mail to the taxpayer a written or printed notice (a) before increasing the taxpayer's list or adding to the list the name of any person omitted (S.12-111), and (b) after making a supplemental list of any taxable property which has been omitted by the assessors (S.12-115).
5. Grant tax exemptions to disabled veterans whose proof of eligibility was not filed within the required time for the assessors to grant the exemption (S.12-95).
6. File an annual report with the Secretary of the Office of Policy and Management of \* action taken at their meetings (S.12-9).
7. Report in writing the final determination of all appeals to each person making an appeal within one week after their determinations have been made (S.12-111).

In general, the boards of tax review may reduce assessment lists and make changes in valuations; they may also increase assessment lists and in some cases add a 10 percent penalty to the value of any items added. They may, for example, add the names of any property owner omitted from the assessor's list, and may also make supplemental lists of taxable property omitted by the assessor.

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\* History: P.A. 77-614 substituted commissioner of revenue services for tax commissioner, effective January 1, 1979; P.A. 79-610 substituted secretary of the office of policy and management for commissioner of revenue services, effective July 1, 1980.

The courts refer to them as administrative boards, not as judicial tribunals. The State Supreme Court, for example, has stated that the board of assessors and the board of tax review are administrative boards although acknowledging that "in considering the results arrived at by them, we must bear in mind that the process of estimating the value of property for taxation is, at best, one of approximation and judgment, and that there is a margin for a difference of opinion."<sup>1</sup>

The board of tax review is said to carry out administrative or ministerial duties when it adds omitted property to the assessment roll, sends out notices to taxpayers of any change in their assessments, or makes supplemental lists. These functions are specified in the statutes, and must be performed by the board without regard to its own judgment. Although the statutes frequently use the word "may," the courts will often regard the term as equivalent to "shall" or "must".

The board exercises discretionary powers when it reduces or increases a taxpayer's assessment. In such action, the board is free to exercise its own discretion, and its decisions have the authority of law until overruled by the court. Like the courts, the boards must adhere to certain procedures and exercise an impartial review of the evidence. Also as in the case of courts, the boards' decisions are legally binding and may be appealed to a higher tribunal. However, the boards do not use rules of evidence in adversary proceedings, as do the courts. Moreover, the boards are not bound by binding precedents--referred to in legal terms as the rule of stare decisis. This permits a greater procedural flexibility and speed in settling the taxpayers' claims of aggrievance.

#### POWER TO INITIATE ACTION

Do the boards have the power to initiate review without a specific request? The statutes are not clear on this point, and the answer is tied in with another question: May the boards reduce a taxpayer's assessment if the taxpayer does not appear before the board at one of its meetings?

The boards are authorized to initiate action under two statutes. Section 12-111 of the General Statutes permits the boards to equalize and adjust valuations and assessment lists, and to increase, add to, or make a list of taxable property. Section 12-115, on the other hand, permits boards to make lists of property omitted by the assessors. However, additions made under Section 12-115 must be accomplished during the three months following the date prescribed by law for completion of the board's duties.

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<sup>1</sup> Burritt Mutual Savings Bank v. New Britain, 146 Conn. 669, at 674, 475 (1959). See also Bugbee v. Putnam, 90 Conn. 154 (1916).

Questions concerning the boards' power to initiate action at their own discretion have arisen because of the general language of both Section 12-111 and Section 12-113. Section 12-111 states, in regard to the boards' general powers, that a board "may equalize and adjust the valuations and assessment lists of such towns." Section 12-113, on the other hand, asserts that a board "shall not reduce the list of any person who does not appear, either in person or by his attorney or agent, and offer or consent to be sworn before it and answer all questions touching his taxable property situated in the town."

Because of State Supreme Court decisions the State Tax Department believes that it would be legally impossible for a board of tax review to make any reduction in the event that the taxpayer or his attorney did not appear before the board. "The language used in Section 12-113 is so clear, and it has been interpreted so strictly by the court, that it is doubted if the court would say that this statute would have no meaning in the event that it should be considered with Section 12-111," the State Tax Commissioner pointed out in 1964.<sup>2</sup> He added that until the State Supreme Court has considered both statutes together, the State Tax Department can only advise local assessing officials, in order to avoid any possible difficulty, that care be taken by a board of tax review to make no reduction where the owner himself, or his attorney or agent, has not appeared before the board.

Section 12-111 was enacted by the General Assembly in 1963, while Section 12-113 was adopted two years later. The seemingly conflict between two statutes, one permitting a board of tax review to equalize and adjust the town's valuation and assessment list, the other prohibiting the board from reducing the list of any person who does not appear before the board and answer all questions concerning his property, has placed some municipalities in a dilemma.

## BOARD'S PART IN REVALUATION

Another important question arising in recent years concerns the board's role in the revaluation process. Revaluation refers to a complete reappraisal of all the municipality's taxable property and the placing of new values upon each piece of property. It is necessitated by changes in property values and if not undertaken periodically, inequitable assessments will result causing an unequal distribution of the property tax burden.

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<sup>2</sup>Letter by the State Tax Commissioner to the chairman of the board of tax review in the town of Clinton, August 5, 1964.

Revaluation every ten years is mandatory by Connecticut law (S.12-62). The purpose of this requirement is to insure uniformity in real property valuations by eliminating inequities that may have developed since the previous complete reappraisal. While higher assessed values which usually result from a revaluation have in some cases created adverse public reaction--and even political upheavals--periodic revaluations are an integral part of sound assessment systems. If properly conducted, a reassessment program will result in a just and equitable system of assessing which will benefit the assessor, the local administration and the taxpayer.

Revaluation generally results in an increase in the municipality's grand list. Consequently, it is usually immediately following a revaluation that the board of tax review undergoes its heaviest workload and the number of appeals it normally hears can be doubled.

## RELATIONSHIP WITH THE ASSESSOR

Boards of tax review obviously do not function in a governmental vacuum. They work with many municipal officials and frequently need their help or are in a position to offer them assistance. Assessor, town or city clerk, board of finance, mayor, manager, or selectman--all at times will have relations with the board of tax review.

The official with whom the board of tax review will have the most contact is, of course, the assessor. This is because of the fact that the powers and duties granted to the board make it an integral part in the assessment process. Its work of necessity brings it into close contact with the assessor's office even though the two agencies perform different functions.

The assessor has a four-fold task. He\* (1) makes the preliminary compilation of tax lists, (2) describes the property enumerated on the lists, (3) determines the valuation of each item of property, and (4) records all property descriptions and valuations. After the assessor's work on the town's grand list is completed, the records are turned over to the board of tax review for such check on double assessments, omissions, and completeness of assessment as is possible while the board is sitting.

These close operations between the board of tax review and the assessor's office make them partners in assessment administration, particularly as the two agencies have common goals, fair and equitable assessments. The satisfactory achievement of these goals depends, for the most part, upon reciprocal working arrangements between the board of tax review and the assessor.

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\* The author wishes to stress that he does not in any way intend, by use of masculine nouns and pronouns, to exclude women. The office of assessor in Connecticut has, in fact, been held by men and women for many years. Likewise, boards of tax review have men and women serving on them.

In only one city of Connecticut is the assessor a member of the board of tax review; this is in Waterbury, where the assessor is an ex officio member of the board, and collects the appeals and presents them to the board. The Waterbury assessor, however, has no voting power, and the board makes the final decision. Moreover, he receives no additional compensation for his duties with the board of tax review.

Frequently, the matter of harmonious relations between the board of tax review and assessor is related to the personalities of the individuals concerned; yet there are many steps open to the board and the assessor which would facilitate harmonious relationships. Board members, for example, have been advised to meet with the town or city assessor prior to the board's first session. At this meeting, the assessor may explain the community's assessment practices and the factors used in arriving at valuations, such as cost schedules, classification system, depreciation tables, and land value charts. In addition, the assessor may inform the board of all appeals expected to be presented by the taxpayers.

Before holding subsequent scheduled sessions, it is advisable for the board of tax review to consult again with the assessor in order to obtain his opinion as to why certain assessments have been changed and what complaints the board is likely to receive. In this way, the board is prepared for appeals which may arise and will be in a better position to answer the inquiries of taxpayers as to the "why" of their assessments.

After listening to an appeal but before reaching a decision, the board may want to consult again with the assessor. This gives the assessor an opportunity to explain his reasons for the assessment and other pertinent facts which may not have been disclosed at the hearing and could conceivably alter the board's decision.

Should the assessor be present when the board hears an appeal? This is a question frequently asked by new board members. There are advantages and disadvantages to this practice. The advantages are that it gives the assessor a chance to discuss the case in question with the taxpayer and to explain how he reached his assessment figures. Sometimes a taxpayer is satisfied when it is explained to him how the assessment was determined and will pursue his appeal no further. Moreover, having the assessor present during the appeal makes it possible for the taxpayer to be given answers immediately, without having to wait several days while the board contacts the assessor.

The disadvantage of having the assessor present during an appeal is that the taxpayer may hesitate to speak openly if he previously has had words with the assessor and finds him present when he is pleading his case. The appeal

should be conducted in a dignified and an orderly fashion, the same as a court trial, and if the assessor is present, it may make some taxpayers feel as though they were facing their accuser.

Whether or not the assessor should be present during an appeal, therefore, becomes an individual matter, depending upon the type of appeals that are heard, the personality of the assessor, and conditions within the municipality. For the most part, however, assessors and board members alike feel that the assessor should be available but not present during appeals unless specifically requested to do so in order to explain a particular assessment. "This is a very good middle-ground arrangement," states one board member, pointing out that there would be no point for appeal to the board if the assessor were to attend every hearing. On the other hand, it would be difficult for a board to function at all if it did not consult with the assessor.

After its work of review and correction is completed the board should meet again with the assessor and explain the changes made and the reasons for them. The important factor, however, is maintenance of harmonious working relations between the board of tax review and the assessor. Such harmonious relations are all the more vital in view of the fact that increasing numbers of Connecticut assessors receive professional training prior to employment and obtain certification, yet their decisions become subject to review by laymen who generally gain their first exposure to assessing after election or appointment to office.

## RESPONSIBILITIES TO THE PUBLIC

As an arm of the municipal government, the board of tax review has important responsibilities. Most of the persons with whom board members come into contact are dissatisfied or irate residents of their own community, who may feel that they have been unjustly taxed.

Board members generally are long-time residents of their community and usually have many friends in the area. Maintaining friendships without permitting friends to seek an advantage is a balancing role that becomes part of the board's total operations, just as it does for any government official.

Frequently, board members may know a great deal about a resident's personal affairs. They have information on a resident's property; they know how large his holdings are and how much they are worth. This is the kind of information which few persons want revealed to the public, any more than they desire to have their income publicized. Board members therefore, are obligated to perform their duties with discretion. However, under the state's "right-

to-know" law (S.1-19 and S.1-20), all board records, like other official government records, must be made public, unless this would adversely affect the financial interests of the town or city or the reputation or character of a taxpayer.

Because their conduct reflects upon the municipality no less than that of other town or city officials, board members must exercise discretion in their operations. The following practices will aid them in their unwritten responsibilities to the public:

1. Before holding meetings, a board should be thoroughly familiar with the system of assessment in its town or city so that it can understand and explain the assessments to the taxpayers. Sometimes taxpayers make their complaints known first to the assessors; in such case, the board may be able to obtain information on expected appeals from the assessor, together with the assessor's comments, thus becoming familiar in advance with some of the questions or problems to be raised at the hearing.
2. All hearings should be conducted in a dignified and judicial manner, and board members should assume a professional demeanor.
3. A board has the power to administer oaths (S.1-24), and should take all testimony under oath.
4. When an assessment is contested by a taxpayer, board members should personally inspect the property under question, if feasible, although many changes merely reflect clerical errors on cards.
5. Unless the regular assessment procedure has produced a manifestly excessive assessment, the board should make changes in accordance with the municipality's assessment system to insure uniformity of assessment and to avoid possible charges of inequities on the part of taxpayers. However, the board should have a rationale for changes which is consistent with the municipality's assessment system and can be justified within it.

## **CHAPTER IV: Organization of the Boards**

The organization of Connecticut's boards of tax review is similar in most municipalities. The few variations which occur depend upon whether the municipality is administered by the General Statutes or special act. Towns and cities administered by the General Statutes come under the following provisions.<sup>1</sup>

### **MEMBERSHIP**

Unless otherwise provided by special act, boards of tax review consist of no fewer than two nor more than five members (S.9-199). All members are elected (S.9-185), unless appointment is permitted by law. In some town charters and under provisions of some special acts, for example, it is specified that they may be appointed.

Under the uniform election law (S.9-164a), all elections are held on the first Monday of May or the Tuesday after the first Monday of November in odd-numbered years, whichever date is selected by the municipal legislative body. Board members are elected for two, three, or four years (S.9-199). When the number to be elected is even, no person is to vote for more than one-half of the total number of board members. When the number to be elected is odd, no person shall vote for more than a majority.

Towns which adopt biennial elections may elect board members for four years, their terms of office to be staggered. The electors in such towns may vote for the full number of board members. (S.9-199).

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<sup>1</sup>Numbers enclosed in parenthesis pertain to the section in the General Statutes where the subject may be found. The first number refers to the Title in which the section is located, the second number to a specific part within the section.

Where there are enough candidates to fill all vacancies on the board, those having the highest number of votes are to be elected (S.9-199). However, the maximum number of board members permitted from the same political party, irrespective of whether they are appointed or elected, is as follows: two for a three-member board, three for a four-member board, and four for a five-member board. This provision is in keeping with the state minority representation law (S.9-167a), which guarantees the minority party some representation on all boards and commissions.

Board members hold office during the term for which they are elected and until their successors are elected and have qualified (S.9-199). If a vacancy on the board exists for any cause, the town must fill the vacancy at the next municipal election or at a special election. Until that time, the vacancy is filled by the selectmen through a temporary appointment (S.9-220) from the same political party as the board member vacating the position (S.9-167a).

If a board member ceases to be an elector of the town or city in which elected, regardless of the reason, he must vacate his office (S.9-186). The office then is considered vacant. When a vacancy occurs, the town clerk, mayor, or borough warden must notify the Secretary of the State within five days and also notify the Secretary of the State within five days of the filling of the vacancy (S.9-223).

No assessor is to serve as a member of the board unless otherwise provided by special act. Moreover, no member of the board of finance may serve on the board if it is a salaried office (S.9-210).

Other than the requirement that board members must be electors of the municipality in which they are elected (S.9-186), there are no specific qualifications for the office. Both elected and appointed boards generally are composed of laymen who may have little if any specialized training or knowledge of assessment procedures prior to their initial term of service.

Each board member must be duly sworn in before entering upon the duties of the office to which he has been appointed or elected (S.7-105). The following oath is required:

You solemnly swear that you will faithfully discharge, according to law, your duties as member of the board of tax review to the best of your ability; so help you God (S.1-25).

Compensation of boards of tax review may be fixed by the town or city legislative body, board of selectmen, town meeting, or board of finance. Each board member who gives less than his whole time to the performance of his

duties must be paid at the rate of no less than \$2.50 per day for each day of employment (S.12-121).

Unless otherwise provided by special act, boards of tax review must meet at least three times annually during the month of February and at least once in the month of September annually solely for hearing appeals related to the assessment of motor vehicles. Meetings are held on business days, including Saturdays (S.12-110), generally in the town or city hall.

Notice of board meetings must be made available to taxpayers in the following manner: At least ten days before the first meeting of the board, a notice of the time and place of the meeting must be posted on the public sign-post in the town and published in the town newspaper.<sup>2</sup> If no newspaper which is published in the state and has a general circulation in the town (S.12-110).<sup>3</sup>

Meetings must be open to the public when the board is in session. If the board is in executive session, meetings are closed to the public upon vote of a majority of the members present. The vote of each member upon any issue before the board is to be recorded in the minutes of the session at which taken, and the record made available for public inspection at all reasonable times (S.1-21).

## ACCOUNTABILITY

Because of the vital role played by the boards in assessment administration, many procedures have been established by the General Assembly to hold them accountable for their actions. Operations and records of the boards are liable to examination by the Secretary of the Office of Policy and Management and the State's Attorney, and their decisions subject to judicial review by state and federal courts.

Actions expressly forbidden to the boards by law are as follows:

1. They may not reduce the list nor the valuations, number, quantity, nor amount of any item or property, nor erase any item or deduct any indebtedness, from the list of a person who:
  - (a) Has refused or neglected to submit his sworn list to the assessors if prescribed by law (S.12-114).
  - (b) Refuses to appear before the board either by himself, or his attorney or agent, and offer or consent to be sworn and answer all questions concerning his taxable property (S.12-113).

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<sup>2</sup>Giving notice of board meetings is mandatory and constitutes conditions precedent to valid assessment. Rocky Hill Incorporated District v. Rayon Corp., 122 Conn. 392 (1937).

- (c) Has not made an appeal to the board at one of its meetings in February (S.12-112) or in another month if designated by special act.
- 2. They may not perform an unlawful act nor omit to do any necessary act connected with the assessment process (S.12-170).
- 3. They may not charge nor receive any illegal fees (S.12-170).

In addition, the General Statutes contain the following provisions to hold boards of tax review, along with other municipal officers, accountable to state authority:

- 1. The Secretary of the Office of Policy and Management by himself or an agent appointed by him, shall require compliance by assessors with all statutes concerning the assessment of real and personal property and shall visit towns in the state and inquire into:
  - (a) The manner in which laws relating to listing and assessing of taxable property are executed by the boards (S.12-2).
  - (b) Whether all persons and property taxable in such towns are justly assessed and taxed (S.12-2).
  - (c) Whether tax exemptions on property are granted in the manner and only to the extent required by law (S.12-2).
- 2. To assist him in his investigations, the Secretary of the Office of Policy and Management may subpoena any person to appear at a place in the town where the inquiry is being made. He may also subpoena witnesses and the production of books and papers. Testimony must be taken under oath, and no witness is to be excused from testifying or producing books or papers on the ground that such testimony or production of books or papers will tend to incriminate him. However, such evidence or production of books or papers may not be used in criminal proceedings against the witness. If any person disobeys the subpoena, or refuses to answer pertinent questions, the Commissioner may apply to the Superior Court. Should the court find the statements in the Commissioner's application to be true, it may commit the individual

to jail until he testifies, but not for a longer period than sixty days (S.12-2).

3. If the Secretary of the Office of Policy and Management ascertains that a board of tax review has failed to discharge its administrative duty according to law, he may call such failure in writing to the attention of the board. Should the board fail to comply with the law in regard to the matter placed in writing, the Commissioner may apply to the Superior Court and if the court finds the facts stated in the application to be true, it is to issue a mandamus requiring compliance. (S.12-4).
4. All boards of tax review must file an annual report with the Office of Policy and Management on forms furnished and at a date prescribed by him. The report is to include such information as the number of appeals reviewed by the board, the number and total amounts of lists reduced or increased by the board, the number of persons sworn and questioned by the board, and the names and compensation of board members and the number of days they worked as members of the board (S.12-9). From these and other reports required by law, the commissioner must furnish information to the public regarding the methods of assessment and collection of taxes, the amount of such taxes levied and collected in the towns and cities, and other pertinent taxation matters (S.12-7).
5. If the State's Attorney believes that a board of tax review has falsified any records, or has appropriated money to its own use or to the use of others who are not entitled to it, application may be made to the Secretary of the Office of Policy and Management (S.12-6). The Commissioner thereupon may order an audit of the board's record and transmit to the State's Attorney a certified copy of his report, showing the results of the audit. The cost of such audit is to be borne equally by the municipality and the state.

Thus, it will be seen that the Secretary of the Office of Policy and Management has considerable power over property tax administration, if he chooses to exercise it. Under Section 12-2 of the General Statutes, for example, he is authorized to visit towns and "inquire into the

manner in which the laws relating to listing and assessing taxable property therein are executed by the assessors and boards of tax review." Under Section 12-4, he is empowered to take judicial proceedings against delinquent tax officers, including boards of tax review.

In practice, the Secretary of the Office of Policy and management generally goes along with the majority vote on the board of tax review. However, if a question arises concerning the proper execution of a matter of law, the two statutes give the Secretary authority to investigate irregularities.

In addition to appealing to the Secretary of the Office of Policy and Management, a board member with a complaint against other board members may also appeal to the chief administrative officer in this town and the town counsel.

## **FINES AND PENALTIES**

For any infringements of the laws, board of tax review members as individuals or the board as a collective body are subject to the following penalties and fines:

### **1. For refusal to accept or perform duties:**

- (a) Any person elected to the board of tax review to which he is eligible and who refuses to accept the office and take the oath prescribed by law shall, unless he has reasonable excuse for such refusal, be fined \$5 (S.7-104).
- (b) Any person elected to and accepting office on the board of tax review who neglects to perform the duties of the office shall be fined not more than \$10 (S.7-104).
- (c) Any board member who fails to discharge his administrative duties according to law and who fails to comply with the law after it has been called to his attention in writing by the State Tax Commissioner shall be subject to mandamus by the court requiring compliance (S.12-4). In addition to issuing the mandamus the court shall render judgment against the board with costs. If the board fails to comply with the mandamus, it shall be held in contempt and the court may punish the members as in mandamus proceedings.
- (d) Any board which neglects to file an annual report with the Secretary of the Office of Policy and Management

or which includes a willful mis-statement in making and filing such report, shall forfeit \$15 to the state (S.12-9).

(e) Any board which hinders or refuses to deliver records upon demand of the State Tax Commissioner or his agent shall be fined not more than \$200 or imprisoned not more than sixty days, or both (S.12-6).

(f) If any board member disobeys a subpoena of the Secretary of the Office of Policy and Management or refuses to answer pertinent questions, the Secretary may apply to the Superior Court, and if the court finds the allegations to be true it shall commit the board member to jail until he testifies, but not for a period longer than sixty days (S.12-2).

2. For official misconduct:

(a) A board member who does any unlawful act or omits to do a necessary act shall forfeit \$50 to the person aggrieved by the omission or commission of the unlawful act (S.12-170).

(b) A board member who receives any illegal fees shall forfeit \$50 plus an amount double that of the illegal fees to the person aggrieved (S.12-170).

3. For illegal reduction of lists:

(a) Each board member who reduces the list or the valuation, number, quantity, or amount of any item of property in the list of a person who has refused or neglected to submit his sworn list to the assessors, if prescribed by law, shall forfeit \$50 to the town (S.12-114).

(b) Each board member erasing any item or deducting any indebtedness from the list of a person who refuses or neglects to turn in his sworn list to assessors, if prescribed by law, shall forfeit \$50 to the town (S.12-114).

## **ACCESS TO BOARD RECORDS**

All records made, maintained, or kept on file by boards of tax review, except as otherwise provided by federal or state statute or regulation, must be public records (S.1-19). The records are to be kept in an accessible place at the board's regular office or place of business. If there is no such office or place of business, the records may be retained in the town clerk's office. Every resident has the right to inspect or copy the records at such reasonable time as may be determined by the custodian (S.1-19), unless inspection or copying of the records would adversely affect the financial interests of the town or the reputation or character of any person (S.1-20).

Any denial of the right of inspection is to be made in writing, generally stating the reason, within eight days after receiving the request for inspection (S.1-20). A person aggrieved by such denial may appeal within fifteen days to the Superior Court for the district where the board of tax review is located. If the court determines such denial was not for a just and proper cause, it shall enter such order for disclosure as it deems proper. These appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus and actions brought in behalf of the state.

## CHAPTER V: Operations

Hearing appeals from taxpayers and acting on their complaints that their property is wrongfully assessed constitute the major portion of the workload of boards of tax review. The process, which frees the courts from hearing minor cases and keeps the taxpayers from becoming involved in expensive and time-consuming litigation, is defined in the General Statutes and provides for an orderly procedure. In most instances, the courts will not hear a case unless the taxpayer first uses the legal remedy for relief which boards of tax review provide.

### HEARING TAXPAYERS' APPEALS

Only the board of tax review, not the municipal legislative body, has the power to take appeals from taxpayers and then review and correct the work of assessors.<sup>1</sup> This is authorized under S.12-111 of the General Statutes. However, under another statute (S.12-119), appeals may be taken directly to the Superior Court, without first applying to the board of tax review, if it can be proven that the assessment was "manifestly excessive" and could not have been arrived at except by disregarding provisions of the statutes for determining valuation of the property.

The State Supreme Court distinguishes between the two statutes, S.12-111 and S.12-119, by defining an appeal to the board of tax review under S.12-111 as being designed to act directly upon the valuation of property on the grand list, whereas an appeal under S.12-119 is viewed

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<sup>1</sup> State ex rel. Coe v. Fyler 48 Conn. 145 (1880). Moreover, municipalities do not have the power to release a taxpayer from a portion of the tax if he is able to pay. See Bridgeport Brass Co. v. Drew, 102 Conn. 206 (1925).

as being directed to relief against the collection of an illegal tax.<sup>2</sup> The court also makes a distinction in the type of cases it will hear under S.12-119. For example, it has ruled that the appropriate remedy for claim of overvaluation by the assessor is an appeal to the board of tax review under S.12-111, not to the Court of Common Pleas under S.12-119.<sup>3</sup>

The court also has stated that a taxpayer seeking relief generally must apply first to the board of tax review; when a taxpayer failed to appeal first to the board, the court denied the recovery of taxes paid voluntarily.<sup>4</sup> However, in an earlier decision, the court had held that a non-resident whose personal property was wrongfully assessed waived no rights by his neglect to apply first to the board.<sup>5</sup>

Those who may appeal to the board of tax review are individuals or organizations claiming to be aggrieved by the doings of the town or city assessor or board of assessors. The definition of a taxpayer who is aggrieved under the law has been considered by the court in several cases. A person upon whose property the assessors put an excessive valuation, which the board erroneously refuses to reduce, is aggrieved, in the eyes of the court.<sup>6</sup> However, a taxpayer is not aggrieved unless the improper listing of his own or another person's property increases his tax.<sup>7</sup> Moreover, a taxpayer is not aggrieved where the court finds his property was assessed at its true and full value despite an error in the method of valuation.<sup>8</sup>

The following individuals or organizations claiming to be aggrieved may appeal to the board of tax review:

1. Any taxpayer owning property in the town or city, including any lessee of real property, whose lease has been recorded as provided in S.47-19 and who is bound under terms of his lease to pay real property taxes, and any person to whom title to such property has been transferred since the assessment day.

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<sup>2</sup>State ex rel. Waterbury Corrugated Container Co. v. Kilduff, 128 Conn. 647 (1942).

<sup>3</sup>Cooley Chevrolet Co. v. West Haven, 146 Conn. 165 (1959).

<sup>4</sup>Pitt v. Stamford, 117 Conn. 388 (1933).

<sup>5</sup>Phelp v. Thurston, 47 Conn. (1880).

<sup>6</sup>Underwood Typewriter Co. v. Hartford, 99 Conn. 329 (1923).

<sup>7</sup>Ives v. Goshen, 65 Conn. 456 (1895).

<sup>8</sup>Slosberg v. Norwich, 115 Conn. 578 (1932).

2. Any scientific, educational, literary, historical, charitable, agricultural, or cemetery organization claiming property tax exemptions under provisions of S.12-81 and filing a tax exempt statement with the board of assessors (S.12-89).
3. Any farmer or group of farmers applying for tax exemption of livestock and poultry owned in the state (S.12-91b).
4. Any disabled veteran claiming property tax exemptions (S.12-95).
5. Any association of unit owners charged with the administration of property under the Unit Ownership Act, appealing on behalf of property owners (Public Act 211, 1971).
6. Any owner of woodland or land suitable for forest planting (S.12-103) or of open space land (S.12-107e).

## APPEALS PROCEDURE

All appeals must be presented to the board of tax review at one of its meetings during the month of February, except as otherwise provided by special act (S.12-112). To make an appeal, the taxpayer or representative of an organization claiming aggrievance must:

1. Submit his sworn list to the assessors if prescribed by law (S.12-114).
2. Appear, or have his attorney or agent appear, before the board at one of its meetings (S.12-112).
3. Be sworn, or have his attorney or agent sworn, before the board and answer all questions concerning his taxable property in the town (S.12-113).

How important is an actual appearance before the board of tax review in filing an appeal? The court has ruled that failure to appear and be sworn before the board is not sufficient ground to prevent the court from hearing an appeal.<sup>9</sup> Moreover, the court has ruled that failure to appear before the board cannot deprive a taxpayer of the right to be heard in court upon the claimed illegality of an assessment.<sup>10</sup>

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<sup>9</sup> Atchison v. Newtown, 2 Conn. Sup. 142 (1935).

<sup>10</sup> Morris v. New Haven, 77 Conn. 107 (1904).

The court has also said that adding property to the list of one taxpayer is not invalidated by the fact that it is erased from the list of another who did not appear before the board.<sup>11</sup> Moreover, if the board delegates one of its members to go to the home of an ill taxpayer to take a sworn statement, such action does not deprive the taxpayer of the right to appeal inasmuch as the board had induced the taxpayer to believe it would be regarded as equivalent to an appearance before the full board.<sup>12</sup> However, at another time the court held that the law contemplates actual appearance in person before the board, not merely a letter stating that the taxpayer was ready to be sworn and questioned.<sup>13</sup>

On one point, the law is explicit: this is the requirement that property owners must submit a list of their property to the assessor before appealing to the board of tax review. According to S.12-42, on or before the first day of November of each year, every resident whose property is liable to taxation, except as otherwise provided by law, must submit to the assessor a list of his property, making a separate description of each parcel of real estate. All owners of real estate or tangible personal property located in the town or city more than seven months during the year, who are not residents of the municipality, must file a list with the assessor of the community in which their property is located under the same provisions as apply to residents.

If a taxpayer fails to file such a list, or if he files an incorrect list, the assessor is required to act upon "the best information" he can obtain (S.12-111). In such case, the taxpayer cannot complain if the assessor, acting in good faith, made an error in judgment in listing and valuing his property.<sup>14</sup> A separate description of each parcel of real estate must be made in the list. It is not enough to submit a list containing such phrases as "property same as on last year's list."<sup>15</sup>

The filing of a tax list is not required in the following cases:

1. Motor vehicles which are registered with the office of State Motor Vehicle Commissioner, if the municipality has so voted and upon approval of the State Tax Commissioner (S.12-41b).

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<sup>11</sup> Sanford's Appeal, 75 Conn. 590 (1903).

<sup>12</sup> Bugbee v. Putnam, 90 Conn. 154 (1916).

<sup>13</sup> Wilcox v. Madison, 103 Conn. 149 (1925).

<sup>14</sup> Cooley Chevrolet Co. v. West Haven, 146 Conn. 165 (1959), and Ponemah Mills v. Lisbon, 89 Conn. 435 (1915).

<sup>15</sup> Wilcox v. Madison, 103 Conn. 149 (1925).

2. If a municipality, upon approval of the Secretary of the Office of Policy and Management and upon adoption by a majority vote at a regular or special town meeting called for that purpose, or by the legislative body, should decide to eliminate the listing of real estate (S.12-4lg, h).
3. Tangible personal property previously listed with the assessor. If a person acquires tangible personal property in addition to that previously listed, or disposes of property described in previous lists, he is to file a supplemental list within thirty days of the next succeeding assessment day (S.1241c). The supplemental list must contain a complete and accurate description of such tangible personal property subsequently disposed of or acquired.

Exceptions to this provision are the following kinds of property: (a) Machinery used in mills and factories; (b) an average amount of goods of merchants and traders on hand for the whole or part of the year preceding the date of listing; (c) an average amount of manufacturers' goods on hand for the whole or part of the year preceding the date of listing, including raw stock, finished and unfinished products, cables, wires, poles, underground mains, conduits, pipes, and other fixtures of water, gas, electric, and heating companies; and (d) furniture and fixtures of stores, offices, hotels, restaurants, taverns, halls, factories, and manufacturers (S.12-4ld).

Should all board members be present when an appeal is heard? The board's action in an appeal is divided into two parts: (1) hearing the appeal and (2) acting upon it. The statutes are silent on the question of how many board members must be present at both actions.

Because of the increasing pressure of work, some boards follow the practice of having only one member hear an appeal at a time. This pressure is reflected in Hartford County, for example, where the boards in 1960 heard 753 appeals; by 1970 the number reached 986. New Haven County boards, by way of further illustration, in 1960 heard 1,169 appeals; in 1970 the number had soared to 2,514. Litchfield County boards processed 1,017 appeals in 1970, compared to 496 in 1960.

The workload of the boards tends to vary with population, but also appears to be heaviest in periods following a revaluation. Thus Fairfield County boards which heard 5,366 appeals in 1960 took only 1,923 in 1970. Hartford County boards took 3,483 appeals in 1969, contrasted to 2,514 only a year later. The result of heavy loads is that board members may not have the time to inspect all pieces of property or to sit together to hear every appeal.

Time may be saved if only one member hears an appeal, freeing other members to take other cases.

## ACTION BY THE BOARD

After hearing an appeal, the board may take any of the following actions:

1. It may reduce the list of a taxpayer by reducing the valuation, number, quantity, or amount of any item in his list (S.12-113).
2. It may increase the items of taxable property in the taxpayer's list, or the number, quantity, or amount of such items (S.12-111).
3. It may add to any list such taxable property or interest which has been omitted by the assessor (S.12-111).

There is one limitation on the board's power to reduce a taxpayer's list. In cases where a taxpayer has been given a 10 percent penalty for failure to file his tax list, the board has no power to reduce or delete the list. Section 12-114 of the General Statutes prohibits a board from altering any "ten percented list" upon penalty of \$50 fine.

Before increasing the list of a taxpayer of adding the name of any person omitted, the board must mail a written or printed notice to the person in question at least one week before making such increase or addition. Although the notice is required, the court has held that failure to receive written notice is waived by the taxpayer's appearance before the board.<sup>16</sup> Moreover, a taxpayer who voluntarily appears before the board and is fully heard cannot afterward take advantage of the fact that he received only four days' notice of the hearing, instead of one week.<sup>17</sup>

The notice, postpaid, is to be addressed to the property owner in the town in which he resides (S.12-111). The communication is to notify him to appear before the board and show cause why an increase or addition should not be made.<sup>18</sup>

The board must also send out a notice before making an increase in the valuation of an item already on the list (S.12-111). The notice, written or printed, must

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<sup>16</sup> Comstock v. Waterford, 85 Conn. 6 (1911).

<sup>17</sup> Sanford's Appeal, 75 Conn. 590 (1903).

<sup>18</sup> Requisites of a valid notice of intended additions are given in Whittlesey v. Clinton, 14 Conn. 72 (1940).

be mailed postpaid one week before making the increase and should be addressed to the property owner in the town in which he resides.

In addition, the board must report in writing the final determination of all appeals to each taxpayer who has made an appeal (S.12-111). This report is to be issued within one week after the board's decision has been made.

### SUPPLEMENTAL LISTS

The board of tax review may make a supplemental list of any taxable property which has been omitted by the assessor and a list for each owner of such property. Moreover, performance of the board's duty to issue a supplemental list may be compelled by mandamus.<sup>19</sup>

In carrying out its duties in connection with supplemental lists, the board does not serve as an agent of the municipality, but functions in an administrative capacity.<sup>20</sup> It may set the supplemental list at such percentage of the actual valuation as the assessor determines under provisions of S.12-64 and S.12-71, from the best information that can be obtained, and may add 10 percent of the assessment, if applicable (S.12-115). The supplemental list must be made by the board within three months from the date prescribed by law for the completion of its duties.

When making a supplemental list of taxable property omitted by the assessor, the board must send a written or printed notice to the taxpayer whose name appears on the list (S.12-115). The notice must be mailed, postage paid, within one week after completion of the list, addressed to the taxpayer in the municipality in which he resides and notifying him to appear before the board at a stated time and place to show cause why his property should not be included in the supplemental list.

Except as otherwise provided by law, selectmen must make out and sign the supplemental rate bill and supplemental warrant, and deliver them to the tax collector (S.12-130). The tax collector has the same powers for collection of the tax based on the supplemental list as for the collection of other taxes (S.12-115).

### CORRECTING CLERICAL ERRORS

The board of tax review may correct any clerical omission or mistake in the assessment of taxes (S.12-60). However, the court has held that this power was not intended to authorize assessors to review an assessment which has been

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<sup>19</sup> State ex rel. Foote v. Bartholomew, 103 Conn. 607 (1925).

<sup>20</sup> Montgomery v. Branford, 107 Conn. 697 (1928).

appealed to and revised by the board.<sup>21</sup> The court also has ruled that clerical omissions or mistakes do not include errors of substance.<sup>22</sup> Moreover, while there is no time limit for making such correction,<sup>23</sup> omissions and mistakes in assessments can be taken advantage of only by those in whose lists they occur.<sup>24</sup>

Taxes resulting from corrections in clerical errors are levied and collected according to the corrected assessment (S.12-60).

If the assessor inadvertently fails to place property on the grand list, may such omitted property be added once the three months' supplemental period given to the board of tax review has expired? The answer is No. Any additions must be made within three months from the date prescribed by law for completion of the board's duties.

However, there may be cases of incorrect listing, where property has been assessed on time but accidentally omitted from the list of the rightful owner and placed in the list of an improper person. Under S.12-60, which authorizes a clerical omission or mistake to be corrected by the board at any time, the property omitted from the list of the rightful owner could be taken from the list of the person in whose name it previously had been listed by mistake and added to the list of the rightful owner.<sup>25</sup>

## COMPLETION OF BOARD'S WORK

The board must complete its duties by the end of the last business day in February, unless otherwise provided by special act (S.12-110).<sup>26</sup> However, the period prescribed by law for completion of the board's duties may, for due cause, be extended by the Secretary of the Office of Policy and Management for a period not exceeding one month, provided the board submits to the Secretary a request in writing, setting forth the reasons. The request for extension must be approved by the chief executive officer of the municipality and is to be submitted to the Secretary not less than ten days before expiration of the period prescribed by law.

<sup>21</sup> Bridgeport Brass Co. v. Drew, 102 Conn. 206 (1925).

<sup>22</sup> Reconstruction Finance Corp. v. Naugatuck, 136 Conn. 29 (1949).

<sup>23</sup> Bridgeport Brass Co. v. Drew, 102 Conn. 206 (1925).

<sup>24</sup> Sanford v. Dick, 15 Conn. 447 (1943).

<sup>25</sup> William F. Connelly, Corrections of Errors in Assessment of Taxes (Storrs, May 5, 1955).

<sup>26</sup> Failure of the board to announce its decisions does not constitute a failure to complete its duties within the prescribed time. Sanford's Appeal, 75 Conn. 590 (1903).

If the board receives an extension of one month for completion of its duties, the time within which a taxpayer may appeal from a board decision and the time within which the town clerk is to transmit an abstract of the assessment lists shall be extended for a like period (S.12-117).

In situations where the board of tax review has more appeals than it can handle in the time it has to complete its duties, the following procedure applies. If, in the opinion of the board and the chief executive officer of the municipality, the number of appeals precludes the board's fair and equitable consideration within the time allowed, the Secretary of the Office of Policy and Management may authorize the assessors to use the last prior assessment list, subject to transfers, additions of new construction, and reductions for demolitions. A request for such action must be made in writing by the board with the approval of the chief executive officer. The list from which the appeals were taken then becomes the list for the next assessment day, subject to adjustments made by the board (S.12-117).

After the assessment lists have been examined and corrected by the board, an abstract of the lists is sent by the town clerk to the Secretary of the Office of Policy and Management. Forms for the abstract are furnished by the Secretary on or before the first day of January. The abstract is to be transmitted to the Secretary on or before the first day of April. In making the abstract, the town clerk corrects all clerical errors which appear upon any corrected assessment list (S.12-120).

At the same time, the board of tax review must file an annual report with the Secretary on the form furnished and at a date prescribed by him. (S.12-9). The report must include the following information:

1. The names and compensation of each member of the board and the number of days they worked as members of the board.
2. Total cost to the town of all work of the board on the assessment lists, including salaries and expenses.
3. The number of appeals for review, the number of persons notified of intended increase in or addition to lists, and the number of persons sworn and questioned by the board.
4. The number of lists reduced by the board because the assessors did not grant exemptions to eligible veterans and the blind, and the amount of reduction.
5. The number of lists reduced by the board and the total amount of reductions.

6. The number of increases and new lists made the board.
7. The total amount added to the grand list.
8. Suggestions of the board of tax review as to the work of the assessors in obviating wide inequalities in the lists.
9. Difficulties of the board in carrying out requirements of the statutes.

Boards which find that they cannot complete all of their work during the three sessions a year that are required during the month of February, unless otherwise provided by law, may apply to the Office of Policy and Management for an extension of time. The application must be made ten days before the end of February. Yet, at that point, board members generally do not know whether or not they will be able to complete all their work by the end of February. However, the law states that the boards shall meet at least three times a year in February; it does not prohibit them from convening more often.

According to some former board members, the three-day meeting period of the boards is for hearing appeals. All other work performed by the boards should be done on board members' extra time. Even the boards' routine clerical work should be done on the members' extra time and performed during the three-day hearing period only if there are no petitioners. In such cases, it is advisable that board members be paid a flat hourly rate. If the town is growing or facing a revaluation, the board members will require additional time and salary, and it is recommended that this be included in the board's budget.

## CHANGES AFTER THE LAST SESSION

If the board makes a list for a taxpayer during its February session, adding new items, it does not have three months after the last business day in February in which to value the new items of property. If the items are on the board's list on or before the last business day of February, the value must be fixed not later than that day (S.12-111).

If the board discovers new items on a taxpayer's property after holding its last business session in February, it has the power to make a list of the new property and to value it. However, none of the items should have appeared in either the list of the assessor or the board. Any new items so valued by the board must be made as a supplemental list and completed within three months after the board's last business day in February (S.12-115).

Another question which frequently arises is whether the board may increase the assessor's valuation after the month of February under S.12-115. The answer to this question also is No. Any change in valuation of property that is listed by the assessor and not omitted must be completed in February under provisions of S.12-111. S.12-115, authorizing supplemental lists, relates to property omitted by the assessor and the board. After the last business day of February, the board can act only on property omitted from both lists.

## REPORTS TO BE FILED

Board members are not required to sign the Abstract of Taxable Property before it is submitted to the town clerk after changes are made by the board. Only the assessor is required by law to sign the Abstract, although some boards, through practice, have also signed the Abstract. In regard to the annual report which must be filed by the board with the Secretary only the board chairman is required to give his signature. However, there may be cases where a town requires the signatures of all board members.

Should a board member sign a report even if he has not attended meetings of his board? It may seem unusual that a member would not attend meetings of his board; yet there have been instances, albeit rare, when the two majority members of a board failed to notify the minority member of the meetings. A law passed in 1969 now requires that a schedule of all meetings be filed with the town or city clerk. Board members must also be notified of special meetings. Notice of open meetings must be published, and a board member who suspects that he will not be notified of a forthcoming session should check his town newspaper.

Upon completion of the work of the board on the final assessment list, the town levies a tax on the list, payable not later than forty days prior to the end of the fiscal year for which the tax was levied, unless otherwise provided by law (S-122). Information regarding the methods of assessment and collection of taxes, the amount of such taxes levied and collected in the towns and cities, and other pertinent taxation matters is provided for the public by the Secretary of the Office of Policy and Management from the annual report filed by the boards of tax review and other reports required by law to be made (S.12-7).



## **CHAPTER VI: Appeals to the Courts**

Decisions rendered by boards of tax review are binding unless appealed to the state courts through regular legal channels. A formal procedure is established by the statutes for property owners desiring to appeal a board of tax review decision. Such appeals are taken to the Superior Court (S.12-118).

### **WHO MAY APPEAL**

Decisions of the boards of tax review may be appealed to the Superior Court by the following individuals or organizations:

1. Any person claiming to be aggrieved by action of the boards.<sup>1</sup> This includes any lessee of real property whose lease has been reported, as provided in S.47-19, and who is bound under terms of the lease to pay real property taxes (S.12-118).
2. Any person aggrieved by action of the board in compiling supplemental lists (S.12-115).
3. Any scientific, educational, literary, historical, charitable, agricultural, or cemetery organization which filed a tax exempt statement (S.12-89).
4. Any farmer or group of farmers applying for tax exemption of livestock and poultry owned in the state (S.12-91b).

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<sup>1</sup> Shareholders in one company affected by ruling of the same board may join in an appeal. Barrett et al. Appeal, 73 Conn. 288 (1900).

5. Any owner of farm land (S.12-107c), forest land (S.12-107d), open space land (S.12-107e), and others qualifying under S.12-96 to S.12-100, inclusive, who seek to have the land given special classification for purposes of taxation (S.12-103).
6. Any veteran or blind person and spouse who claim property tax exemptions (S.12-81).
7. Any other individual or business claiming exemptions under the various exemption laws of the state.

In certain cases, appeals may be taken directly to the Superior Court without going first to the board of tax review. In these cases, it must be proven that the assessment was "manifestly excessive" and could not have been arrived at except by disregarding provisions of the statutes for determining valuation of the property (S.12-119).

The appeal is made to the Superior Court of the county in which the town or city of the aggrieved is situated.<sup>2</sup> These courts have exclusive jurisdiction over appeals from boards of tax review as well as other administrative boards and commissions.

The appeal must be filed within two months from the time of action by the board of tax review (S.12-118). However, if the board receives an extension of one month for completion of its duties, the time within which a taxpayer may appeal a board decision and the time within which the town clerk is to transmit an abstract of the assessment lists are also extended for a similar period (S.12-117).

Once a case goes to court, the board's work is ended and it cannot touch the case again, just as the assessor or town counsel has no power to reduce an assessment after a case is brought to court. In an advisory opinion to a taxpayer in June, 1964, the State Tax Commissioner stated, "We have always held the opinion that once the time within which the assessors and boards of tax review had to complete their duties had passed, only a court of competent jurisdiction has the power to grant relief by reducing an assessment."<sup>3</sup>

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<sup>2</sup>The State Supreme Court states that the powers given to the court are broad and not limited merely to determining whether the board of tax review acted illegally, arbitrarily, or in abuse of its discretion. Edgewood School v. Greenwood, 131 Conn. 179 (1944). When the court has no jurisdiction to hear an appeal is described in Power v. Old Saybrook, 12 Conn. Sup. 382 (1944).

<sup>3</sup>State Tax Commissioner, letter, June 15, 1964.

The State Tax Commissioner's opinion was based upon several court cases, one of which held:

Assessors have no implied power to settle pending litigation arising out of assessments, since such power is not necessary to the proper performance of their statutory duties. Ratification and estoppel are grounds for enforcing a contract against a municipality only where the contract, though not executed in the particular manner required by law, is one which the municipality has power to make. An agreement by assessors to reduce an assessment revised by the board of relief, in consideration of the taxpayer's abandonment of his right of appeal to the Court of Common Pleas, is not enforceable on the grounds of ratification or estoppel, since it is a contract beyond the power of the municipality and its officers to make. One dealing with a municipal officer or agent in the transaction of purely governmental matters is bound to know the legal limitations of his authority.<sup>4</sup>

A town counsel and the attorney for a taxpayer may reach agreement in a disputed assessment case, but they must bring the case to the Superior Court and obtain approval of the court. The court may or may not follow their advice, but a court case cannot be avoided by seeking an agreement out of court. Such an agreement or compromise, the State Tax Department holds, would be asserting itself into one of the levels of appeal. Only an abatement of property taxes when an individual is too poor to pay is permitted after the board of tax review completes its work.

## COURT PROCEDURES

The following procedure has been established in appealing board of tax review decisions to the Superior Court (S.12-118).

1. The appeal must be in the form of an application, accompanied by a citation to the taxpayer's town or city to appear before the court.<sup>5</sup>
2. The citation is to be signed by the same authority, and the appeal served and returned in the same manner, as required in the case of a summons in a civil action.

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<sup>4</sup> Bridgeport Brass Co. v. Edward A. Drew, Tax Collector,  
102 Conn. 206 (1925).

<sup>5</sup> The town or city should be cited in all appeals from the board. Montgomery v. Branford, 107 Conn. 697 (1928).

3. The authority issuing the citation must take from the applicant a bond or recognizance to this town or city, with surety to prosecute the application and to comply with all court orders and decrees.

If a new assessment year should begin during the pendency of an appeal to the court, the applicant may amend his application in regard to any item in the application. This permission includes an appeal for the new assessment year. The applicant need not appear again before the board of tax review in order to make the amendment effective.

An appeal from a decision of the board of tax review is a preferred case and will be heard by the Superior Court at its first session, unless good cause appears to the contrary, or the court will appoint a committee to hear the case (S.12-118). Voluntary payment of the tax generally results in dismissal of the appeal.<sup>6</sup>

The Superior Court has the power to grant relief upon such terms and in such manner and form as appears equitable. For example, the court may add property to a grand list.<sup>7</sup> It may impose double or triple costs, if the application appears to have been made without probable cause, and it may charge court costs of all applications at its own discretion (S.12-118). However, the court generally will not reduce the valuation below that given by the owner,<sup>8</sup> nor will it place the valuation higher than that of the board of tax review.<sup>9</sup> However, the court may add property to the list.

## ACTION BY MUNICIPALITY

Pending the appeal, the town or city cannot collect more than 75 percent of the tax assessed. However, while the right to enforce payment is suspended by the appeal, the running of interest is not.<sup>10</sup>

If the court reduces an assessment, the municipality must reimburse the applicant for any overpayment of taxes. In the event of overpayment, together with interest and costs (S.12-118).

Recovery of taxes paid has been permitted by the court in some cases, but denied in others. For instance,

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<sup>6</sup> Morris v. New Haven, 78 Conn. 673 (1906).

<sup>7</sup> Cheney v. Essex, 83 Conn. 493 (1910).

<sup>8</sup> Randell v. Bridgeport, 63 Conn. 321 (1893).

<sup>9</sup> Greenwoods Co. v. New Hartford, 65 Conn. 461 (1895).

<sup>10</sup> Hartford v. Hills, 72 Conn. 599 (1900).

the court has ruled that where a person pays taxes illegally assessed against him, whether or not it was compulsory, he may recover the money.<sup>11</sup> However, a manufacturing corporation relocating to another state on the taxing date, and failing to take advantage of relief from excessive assessments by the statutory remedy provided, could not use as a defense to recover the taxes the argument that the property had been removed to another state where it became liable to that state's taxes.<sup>12</sup> On the other hand, liability to pay interest does not make payment of the tax involuntary, and recovery of the money paid on the interest is not allowed by the court.<sup>13</sup>

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<sup>11</sup> Steiger, Inc. v. Hartford, 8 Conn. Sup. 295 (1940).

<sup>12</sup> McCourt v. Anemostat Corp. of America, 25 Conn. Sup. 462 (1965).

<sup>13</sup> Verran Co. v. Stamford, 108 Conn. 47 (1928).



## CHAPTER VII: Improving Assessment Review in Connecticut

Review of property tax assessments by a municipal agency, as the experiences in Connecticut show, affords the dissatisfied taxpayer a ready opportunity to appeal an assessment levied by the assessor. The appeals procedure takes place at no cost to the taxpayer; it is readily accessible since it is conducted in the taxpayer's own community, and in most cases avoids costly and time-consuming court litigation if the taxpayer presses the appeal no further. Procedurally, the local board of tax review works well in Connecticut local government. From a cost of operation viewpoint, the board is among the most inexpensive of all local boards.

While there are advantages to having the citizen or lay person on the board of tax review, the time has passed when just any person can adequately perform the duties of the board. Inherent in the general run of local boards of review is an element of absurdity. The picture may be that of an unskilled part-time board correcting the mistakes of an untrained part-time assessor; it may be that of a political board protecting a political assessor against uneasy taxpayers; or it may be that of the hazards faced by the proficient assessor in defending the product of his systematic appraisals against the opinions of a professionally unqualified and often politically minded board that lacks basic information and comprehension of assessment standards. It can be argued that all three of these types of situations presently exist in Connecticut.

To be able to make changes in valuation or assessment, board members need to know what, where and when property is assessable. They should have an understanding of the three approaches to value used by assessors in mass appraisal. Such concepts as land valuation principles, depreciation and obsolescence, sales ratio studies, personal property valuation techniques, and more are only a partial list of

the specialized and technical knowledge required to adequately perform the review function.

## ALTERNATIVES

It has been argued that so long as assessment administration remains a joint state - local undertaking there is need for a two level review system: agencies at the local level competent to deal fairly and expeditiously with routine and less abstruse problems and an independent, impartial, professionally well-qualified appeal agency at the State level. Appeals from this agency to the courts would be limited to problems of law and not of value. On the other hand, the creation of a new state agency is not likely to go anywhere because of the costs involved. A state appeals board may some day be necessary in Connecticut, but, until then, any significant change in the 300-year-old tradition of conducting assessment review at the local level is unlikely.

A second possibility for increasing the competence of board of tax review members would be to require them to be certified. Certification of assessors was passed by the Connecticut General Assembly in 1974 after several unsuccessful attempts. Today, more than 250 assessment personnel from over 140 cities and towns have been certified by the Certified Connecticut Municipal Assessor Committee, which administers the training program and examinations associated with the designation. However, whereas assessment administration has become a full-time activity, the review function is still a part-time, limited function performed by lay board members who essentially are volunteers. It is probably unrealistic to expect them to devote the time necessary to obtain certification. While board of tax review members can be encouraged to study, it would be difficult to require certification without added incentives, such as increased compensation.

## PRESENT OPPORTUNITIES

Meanwhile, boards of tax review now have the same educational outlets as those available to assessors. Many steps have been taken by the assessors to gain the specialized knowledge required in an exacting profession. Meetings of their professional organization, the Connecticut Association of Assessing Officers, as well as those of the international association, give them the opportunity to meet frequently and discuss mutual problems as well as hear talks by leaders in the profession.

In the week-long annual School for Connecticut Assessors and Boards of Tax Review, conducted by the Institute of Public Service of The University of Connecticut every year, new assessors take introductory courses to gain a background in assessment practices, while those with years of service attend advanced classes to learn new and improved

methods of assessing.<sup>13</sup> In addition, the assessors have a practical guide to assessment administration in the form of the Handbook for Connecticut Assessors. The Handbook serves as a text book in providing basic information on assessment procedures and laws.

Because boards of tax review must work closely with assessors, all of these educational outlets also are open to board members. As the boards do not have a professional association of their own, they may join the Connecticut Association of Assessing Officers. They are invited to attend the annual School for Connecticut Assessors and Boards of Tax Review, where many of the sessions cover information of value to boards of tax review as well as to assessors.

Reviewing grand lists and hearing appeals is a part-time job for the board members. The fact that their work is performed only during part of the year gives them time prior to board meetings to study the field of assessment and to gain the knowledge required of them to carry out their statutory duties with competence.

Nevertheless, the municipal boards of tax review remain a vital link in the chain of assessment reform. When board members avail themselves of the various educational opportunities now being offered and become more fully informed on assessment procedures, without seeking to preempt the role of the assessor in establishing assessed values, they will be in a better position to serve their communities and to provide the kind of assessment review which contributes to the realization of equity in assessments. That many board members have been willing to undertake such self-improvement, while holding municipal positions which offer little in the way of personal rewards, is a tribute to the strength of local self-improvement and local self-government.

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<sup>13</sup>In 1984, the school will celebrate its 40th year, the longest, continuous school for assessment officials in the United States.



## **APPENDICES**



## DATES OF IMPORTANCE TO BOARDS OF TAX REVIEW<sup>1</sup>

January 1. Notice to Town Clerk of regular meetings of the Board of Tax Review. (S.1-21)

January 21. Public is notified of time and place of first meeting of the Board of Tax Review on signpost and in a newspaper. Notice must be given at least ten days before the first meeting. (S.12-110)

January 31. Assessors end their duties and file Grand List with the town clerk. Assessor's power to alter lists under this section ceases when Grand List is filed with town clerk. (S.12-117)

Month of February. Board of tax review meets at least three times during the month. (S.12-110)

February 17. Board of tax review may request an extension of time for completion of duties of the board of tax review. Request is made to the Secretary of Office of Policy and Management no later than ten days before expiration of the period prescribed by law. (S.12-117)

February 18. Board of tax review sends notice to taxpayer at least one week prior to increasing an assessment or adding to the Grand List, requesting taxpayer to appear before the board. (S.12-111)

Last business day of February. Board of tax review completes its duties. (S.12-110)

March 1 through May 31. Board of tax review prepares supplemental list of any taxable property which has been omitted by the assessor or board. (S.12-115)

March 5. Board of tax review notifies all persons who appealed their assessments of the final determination of the appeal by the board. (S.12-111)

March 15. Board of tax review files Report of Board of Tax Review Action, (Form M-11) with the Secretary of the Office of Policy and Management. (S.12-9)

April 1: Town clerk sends Abstract of Assessment Lists to the Secretary of the Office of Policy and Management. (S.12-120)

May 21. Board of tax review sends notice one week after completion of supplemental list, requesting taxpayer to appear before the board for a hearing. (S.12-115)

June 1. Board of tax review completes Supplemental Board of Tax Review Report (Form M-12) with the Secretary of the Office of Policy and Management. (S.12-9)

August 25. Public is notified of time and place of first meeting of the board of tax review on signpost and in a newspaper. Notice must be given at least ten days before the first meeting. (S.12-110)

Month of September. Board of tax review meets at least once, solely for appeals of the October 1st motor vehicles. (S.12-110)

October 15. Board of tax review files Report of Board of Tax Review Action (Form M-11a) with the Office of Policy and Management. (S.12-9)

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<sup>1</sup>Calendar prepared by the Office of Policy and Management. Numbers in parentheses refer to sections of the General Statutes.

TABLE 2  
WORKLOAD AND REMUNERATION OF BOARDS OF TAX REVIEW, 1977  
(By County)

County	No. of Working Days of Each Member <sup>a</sup>	Compensation Per Day <sup>a</sup>	No. of Appeals for Review	No. of Lists Reduced	Amount of Reduction	No. of Lists Increased	Total Amount of Increase
Hartford	8	\$24.79	2,709	1,849	\$18,034,570	343	\$2,742,204
New Haven	6	39.63	802	338	5,644,772	369	3,397,172
New London	5	35.97	278	329	5,574,732	884	2,772,993
Fairfield	5	47.39	1,822	1,125	9,891,111	983	7,122,731
Windham	5	32.12	196	81	577,521	69	265,304
Litchfield	5	28.68	187	152	887,381	259	562,477
Middlesex	5	23.98	479	308	4,361,819	267	2,433,428
Tolland	6	18.88	89	76	385,288	168	544,456
Total	<u>6a</u>	<u>\$32.10a</u>	<u>6,562</u>	<u>4,258</u>	<u>\$45,357,094</u>	<u>3,342</u>	<u>\$19,840,765</u>

<sup>a</sup>Arithmetic average.

Source: Office of Commissioner, Information Relative to the Assessment and Collection of Taxes, 1978. (Hartford, November, 1979).

**TABLE 3**  
**WORKLOAD AND REMUNERATION OF BOARDS OF TAX REVIEW, 1970**  
(BY COUNTY)

County	No. of Working Days of Each Member <sup>a</sup>	Compensation Per Day <sup>a</sup>	No. of Appeals for Review	No. of Lists Reduced	Amount of Reduction	No. of Lists Increased	Total Amount of Increase
Hartford	8	\$19.90	986	797	\$7,443,200	263	\$1,102,580
New Haven	10	31.88	2,514	1,083	7,773,038	557	10,004,501
New London	8	19.50	736	584	2,429,530	453	1,069,758
Fairfield	7	34.21	1,923	893	8,922,481	687	7,009,349
Windham	6	20.97	269	176	688,922	37	55,451
Litchfield	9	20.68	1,017	499	3,284,395	224	566,014
Middlesex	8	18.32	397	298	790,892	198	485,622
Tolland	8	13.62	674	317	992,167	109	217,111
Total	8	\$23.05	8,516	4,647	\$32,324,625	2,528	\$20,508,386

<sup>a</sup>Arithmetic average.

Source: Municipal Tax Division, State Tax Department, December, 1971.

**TABLE 4**  
**WORKLOAD AND REMUNERATION OF BOARDS OF TAX REVIEW, 1960**  
**(By County)**

County	No. of Working Days of Each Member <sup>a</sup>	Compensation Per Day	No. of Appeals for Review	No. of Lists Reduced	Amount of Reduction	No. of Lists Increased	Total Amount of Increase
Hartford	9	\$13.80	753	424	\$ 943,212	176	\$1,612,541
New Haven	10	19.94	1,169	658	1,918,914	319	665,439
New London	11	12.95	1,470	688	1,096,659	274	991,988
Fairfield	11	22.13	5,366	1,891	6,369,889	348	980,445
Windham	7	11.97	154	98	149,891	39	86,257
Litchfield	7	13.89	496	284	403,097	87	151,171
Middlesex	7	13.46	319	224	304,582	99	173,058
Tolland	<u>9</u>	12.45	805	573	664,503	60	270,406
Total		<u>\$15.55</u>	<u>10,532</u>	<u>4,840</u>	<u>\$11,850,747</u>	<u>1,402</u>	<u>\$4,931,305</u>

<sup>a</sup>Arithmetic average.

Source: Office of Tax Commissioner, Information Relative to the Assessment and Collection of Taxes, 1961  
(Hartford, November, 1962).



## COURT CASES AND STATE ATTORNEY GENERAL'S OPINIONS RELATING TO BOARDS OF TAX REVIEW

Following are cases concerning boards of tax review which have been heard by the State Supreme Court, Superior Court, and Court of Common Pleas. The abbreviations, Conn. and Conn. Sup., in the citations refer to Connecticut Reports (of the State Supreme Court) and Connecticut Supplement (of the Superior Court and Court of Common Pleas). The abbreviation, Op. Atty. Gen., refers to Opinions of the State Attorney General, found in the Connecticut Law Journal (CLJ). Statements of court rulings included in this section make use of annotations contained in the General Statutes.

### ADDITIONS TO TAX LIST

Superior Court may add to the list of taxable property omitted. Cheney v. Essex, 83 Conn. 493 (1910).

Adding property to the list of one taxpayer is not invalidated by the fact that it is erased from the list of another who did not appear before the board. Sanford's Appeal, 75 Conn. 590 (1903).

Addition without indicating property held legal. Lewis v. Eastford, 44 Conn. 477 (1877).

Requisites of valid notice of intended additions. Sanford v. Dick, 15 Conn. 447 (1843); Whittelsey v. Clinton, 14 Conn. 72 (1840).

### AGRICULTURAL LAND

Legislative purpose in definition of farm land is sufficiently broad to include nurseries. Johnson v. Board of Tax Review of Town of Fairfield. CLJ, vol. 32, No. 26, December 8, 1970, p. 12.

The legislature's intention in enacting Section 12-107a of the General Statutes, basing taxes on farmland upon current use value and basing taxes on all other property upon actual value, was to grant special privilege to land devoted to agricultural use. Bussa v. Town of Glastonbury, 28 Conn. Sup. 97 (1968).

### APPEALS TO THE BOARD OF TAX REVIEW

#### General

Although hospitals are not mentioned in the statute governing appeal by certain organizations from action of the board of tax review, they may appeal under general provisions governing appeals to boards of tax review. Hartford Hospital v. Board of Tax Review of City of Hartford, 158 Conn. 138 (1969).

Where corporation's appeal from board of tax review ruling was not brought within two months after board's action, it was abatible, although original appeal, in which nonsuit was entered, was taken within required two months' period. Holloway Bros., Inc. v. Town of Avon, 26 Conn. Sup. 164 (1965).

Appeal to board of [tax review] is designed to act directly on the valuations of property on the grand list. Appeal under statute [S.12-119, Remedy when property wrongfully assessed] is directed to relief against the collection of an illegal tax. State ex rel. Water-

bury Corrugated Container Co. v. Kilduff, 128 Conn. 647 (1942).  
Grounds for appeal reviewed. Stamford Gas & Electric Co. v. Stamford, 6 Conn. Sup. 505 (1938).  
Improper to test amount of assessment in action to collect unpaid taxes. West Haven v. Aimes, 4 Conn. Sup. 391 (1937).

## APPEARANCE BEFORE THE BOARD

Failure to appear and be sworn before the board is not sufficient to prevent hearing on appeal; may affect relief by court. Atchison v. Newtown, 2 Conn. Sup. 142 (1935).

Law contemplates actual appearance in person before the board. Wilcox v. Madison, 103 Conn. 149 (1925).

Board may adjourn to house of taxpayer who is ill, deputing one member to examine the taxpayer. Bugbee v. Putnam, 90 Conn. 154 (1916).

Failure to appear before the board cannot deprive the applicant of the right to be heard. Morris v. New Haven, 77 Conn. 108 (1904).

Adding property to the list of one taxpayer is not invalidated by the fact that it is erased from the list of another who did not appear before the board. Sanford's Appeal, 75 Conn. 590 (1903).

## TIME LIMIT FOR APPEALS

Negligent failure of taxpayer to use accessible means to learn of mistake precludes action to recover taxes paid. Pitt v. Stamford, 117 Conn. 388 (1933). Cited. Cohn v. Hartford, 130 Conn. 699 (1944).

Relief from assessment is not precluded by payment made involuntarily and under protest before application for relief is made. White v. Vernon, 9 Conn. Sup. 524 (1941).

Provides for speedy determination. West Haven v. Aimes, 4 Conn. Sup. 391 (1937). Cited. Stamford Gas & Electric Co. v. Stamford, 6 Conn. Sup. 505 (1938).

Codifies common law rule; applies to unpaid taxes existing at time of passage even though time to appeal from doings of board had expired. Connecticut Light & Power Co. v. Oxford, 101 Conn. 383 (1924).

## REMEDIES OTHER THAN APPEAL TO BOARD OF TAX REVIEW

Remedy given by Section 12-119 is not an alternative to an appeal to the board of tax review and then from it to court under Section 12-118. Cooley Chevrolet Co. v. West Haven, 146 Conn. 165 (1959).

Equitable remedy for overvaluation in assessment is precluded. Abarelio v. Derby, 16 Conn. Sup. 48 (1948).

"Owner" does not mean only owner on assessment date; possibility that he might become unduly enriched does not preclude right to test validity of assessment. General Realty Improvement Co. v. New Haven, 133 Conn. 238 (1946). Cited. Fenwick v. Old Saybrook, 133 Conn. 22 (1946).

Remedy provided by Section 12-119 is in addition to and does not preclude remedy by way of declaratory judgment in the Superior Court. Carlo Bianchi & Co., Inc. v. Groton, 14 Conn. Sup. 119 (1946).

Section 12-119 is designed to meet the situations where there is misfeasance or nonfeasance, or assessment was arbitrary or so excessive or discriminatory as to show disregard for duty; function of the court is not limited to determining whether assessors acted illegally, arbitrarily, or in abuse of discretion. Mead v. Greenwich, 131 Conn. 273 (1944).

Mere fact of overvaluation is not ground for relief under Section 12-119; the statute is intended to take place of remedy in equity for illegal overvaluation and precludes resort to equity generally. Cohn v. Hartford, 130 Conn. 699 (1944).

Remedy under Section 12-119 is different from that under Section 12-118; it is directed against the collection of an illegal tax. Power v. Old Saybrook, 12 Conn. Sup. 382 (1944).

Appeal under Section 12-119 is directed to relief against the collection of an illegal tax; under Section 12-111, the appeal is designed to act directly upon the valuation of property on the grand list. State ex rel. Waterbury Corrugated Container Co. v. Kilduff, 128 Conn. 647 (1942).

Word "laid" in Section 12-119 means "imposed." Torrington Co. v. Hackett, 124 Conn. 403 (1938).

In action against taxpayer to collect tax, the taxpayer cannot contest the valuation; he must seek relief under Section 12-111 or Section 12-119. West Haven v. Aimes, 123 Conn. 543 (1938).

Section 12-119 creates no new right or remedy, except in form; the state has always recognized the right of property owner to obtain appropriate relief against illegal tax independent of statutory remedy of appeal from board of [tax review]. Connecticut Light and Power Co. v. Oxford, 101 Conn. 383 (1924).

## ASSESSMENT POWERS OF MUNICIPALITIES

Sewer assessment against the state as property owner cannot be made by a municipality unless it has specific statutory authority to make such assessment. 32 op. Atty. Gen. 204 (1962), 24 CLJ No. 1, p. 8.

Municipalities have no powers of taxation other than those specifically given by statute. Strict compliance with statutory provisions is condition precedent to imposition of valid tax. Empire Estates, Inc. v. City of Stamford, 147 Conn. 262 (1960).

Powers concerning valuation and revaluation of property are vested exclusively in the boards of assessors and tax review; selectmen may not legally call a town meeting to adjust valuation rates. Willis v. Sauer, 19 Conn. Sup. 215 (1954).

A municipal corporation may not reduce a list after revision by the board on appeal. Bridgeport Brass Co. v. Drew, 102 Conn. 206 (1925).

Only the board and not inhabitants in town meeting can review the work of the assessors. State ex rel. Coe v. Fyler, 48 Conn. 145 (1880).

## ASSESSORS

Where assessor did not state to taxpayers that he was not going to increase assessment on taxpayers' land, assessor did not suggest or advise taxpayers not to file application for reclassification of their land, and assessor had no intent to mislead or misrepresent, and taxpayers did not decide not to file application for reclassification at time of their conference with the assessor, but came to that decision later on advice of their own independent advisor, the town was not estopped from altering pre-existing valuation on taxpayers' land. Dickau v. Town of Glastonbury, 156 Conn. 437 (1968).

When assessor, in town where New York company was engaged in highway construction, filed tax list for the corporation, upon corporation's refusal to file the list, using information obtained from docu-

ments on file in town clerk's office, corporation applying for relief against allegedly wrongful assessment of taxes had burden of proving that tax had been laid on property not taxable in the town. Curly Construction Co. v. Town of Darien, 147 Conn. 308 (1960).

Assessors' power to alter assessments exists only during lawful period for performance of their duties, before lists are completed and filed. Once assessors have completed their duties as prescribed by statute, they have no authority to alter a list except to remedy clerical omission or mistake. Empire Estates, Inc. v. City of Stamford, 147 Conn. 262 (1960).

Acquiescence of board in erroneous action of assessors as to listing of property is not a good defense to an action of mandamus to compel assessors to make proper list. State ex rel. Foote v. Bartholomew, 108 Conn. 246 (1928). Cited. Mead v. Greenwich, 131 Conn. 273 (1944); Cohn v. Hartford, 130 Conn. 699 (1944); West Haven v. Aimes, 123 Conn. 543 (1938); Pitt v. Stamford, 117 Conn. 388 (1933).

No remedy exists by appeal to courts from doings of assessors; appeal is limited to actions by the board. Stamford Gas & Electric Co. v. Stamford, 6 Conn. Sup. 505 (1938).

Assessors may be compelled by mandamus to list properly property omitted by taxpayer. State v. Erickson, 104 Conn. 542 (1926).

Board only and not inhabitants in town meeting can review the work of the assessors. State ex rel. Coe v. Fyler, 48 Conn. 145 (1880).

## CLASSIFICATION OR PROPERTY

Taxes on land used as a parking lot should be in accordance with its "highest and best use" rather than its actual use. Federated Department Stores, Inc. v. Board of Tax Review, City of Stamford, 33 Connecticut Law Journal 27 (January 4, 1972).

Classification of land upon fact that its highest and best use would be for industrial purposes and that, at instigation of owners, it was placed in zone which would permit such a use, was an error and classification would have been predicated on actual use to which land was being put. Marshall v. Town of Newington, 156 Conn. 107 (1968).

Where landowner did not apply to assessor for classification of his land as farmland for tax purposes, the land was properly valued at its true and actual value, unless owner's claim that he was estopped from seeking classification by assessor was valid. When owner has applied for classification of land as farmland, it is the assessor's duty to determine whether the land qualifies for such classification. Dickau v. Town of Glastonbury, 156 Conn. 437 (1968).

Issue of proper classification of land subject to real estate tax was properly raised through appeals to board of tax review and on appeal to Court of Common Pleas from board's decision; not only assessor was authorized to classify land. Marshall v. Town of Newington, 156 Conn. 107 (1968).

The term, farm, as used in Section 12-107c of the General Statutes, for purposes of classifying lands for taxation, includes farm buildings. Holloway Bros. Inc. v. Town of Avon, 26 Conn. Sup. 164 (1965).

## COURT APPEALS

### Power of the Courts

On appeal from action of the board of tax review, the court performs a double function. First, it must determine the judicial

question of whether the appellant has been aggrieved by the board which will result in payment of unjust and practically illegal tax. Secondly, if this question is answered in the affirmative, the court must exercise its discretionary power to grant relief. Hartford Hospital v. Board of Tax Review of City of Hartford, 158 Conn. 138 (1969).

The fact that the board of tax review assumed jurisdiction of a hospital appeal from tax assessment did not prejudice the hospital. The board of tax review was not estopped from alleging that the Court of Common Pleas was without jurisdiction to entertain plaintiff's appeal. Hartford Hospital v. Board of Tax Review of the City of Hartford, 158 Conn. 138 (1969).

Where taxpayer did not pursue in his brief the issue of addition of paragraphs to finding of trial court in review of action of board of tax review, addition of paragraphs would be treated on appeal as having been abandoned. Dickau v. Town of Glastonbury, 156 Conn. 437 (1968).

Trial court had function to ascertain true and actual value of property in taxpayers' action to review board of tax review decision which had increased valuation of taxpayers' property for taxation purposes. Dickau v. Town of Glastonbury, 156 Conn. 437 (1968).

When a uniform percentage was not taken by assessors, the court, on appeal from board of tax review decision, could grant taxpayer such relief as justice and equity required. Lerner Shops of Connecticut, Inc. v. Town of Waterbury, 151 Conn. 79 (1963).

Court not limited to determining whether board acted illegally, arbitrarily, or in abuse of discretion. Edgewood School v. Greenwood, 131 Conn. 179 (1944). Cited. Ingraham Co. v. Bristol, 144 Conn. 374 (1957); Sibley v. Middlefield, 143 Conn. 100 (1956).

Superior Court has great discretionary power. Somers v. Meriden, 119 Conn. 5 (1934). Cited. General Realty Improvement Co. v. New Haven, 133 Conn. 238 (1946); Connecticut Savings Bank v. New Haven, 131 Conn. 575 (1945); Mead v. Greenwich, 131 Conn. 273 (1944); Cohn v. Hartford, 130 Conn. 699 (1944); Romell v. Walsh, 127 Conn. 16 (1940).

Court may add property to list. Cheney v. Essex, 83 Conn. 493 (1910).

Court will not reduce the valuation below that given by the owner. Greenwoods Co. v. New Hartford, 65 Conn. 46 (1895); Randell v. Bridgeport, 63 Conn. 321 (1893).

## Procedure

Where hospital took no appeal to Court of Common Pleas from board of tax review's 1965 rejection of appeal by hospital claiming exemption, Supreme Court would assume, in proceeding on appeal by hospital from board action in including property in city's 1966 list of taxable property, that board's reason for refusing exemption was valid. Hartford Hospital v. Board of Tax Review of City of Hartford, 158 Conn. 138 (1969).

Taxpayer claiming to be aggrieved by action of the assessors in overvaluing his property may appeal to board of tax review and, if not satisfied with this action, to Court of Common Pleas, or he may bring an application to that court. McCourt v. Anemostat Corp. of America, 25 Conn. Sup. 462 (1965).

Proper procedure in appealing board ruling. Cooley Chevrolet Co. v. West Haven, 146 Conn. 165 (1959).

When Court of Common Pleas has no jurisdiction to hear appeal. Power v. Old Saybrook, 12 Conn. Sup. 382 (1944). Cited Abarello v. Derby, 16 Conn. Sup. 48 (1948).

No remedy exists by appeal to courts from doings of assessors; appeal is limited to actions by the board. Stamford Gas & Electric Co. v. Stamford, 6 Conn. Sup. 505 (1938).

Statute on appeal from the board aims at rectifying an assessment grievance and not against the payment of a tax. Steiger, Inc. v. Hartford, 5 Conn. Sup. 467 (1937).

Town or city should be cited in all appeals from the board. Montgomery v. Branford, 107 Conn. 697 (1928).

When Superior Court has jurisdiction. State ex rel. Foote v. Bartholomew, 106 Conn. 698 (1927).

Nature of proceedings. Bugbee v. Putnam, 90 Conn. 154 (1916).

Voluntary payment of tax will result in dismissal of appeal. Morris v. New Haven, 78 Conn. 673 (1906).

Burden of proof is on the appellants. Barrett's Appeal, 75 Conn. 280 (1902).

Shareholders in one company who are affected by ruling of the board may join in appeal. Barrett et al. Appeal, 73 Conn. 288 (1900).

Right to enforce payment of assessment is suspended by appeal but not the running of interest. Hartford v. Hills, 72 Conn. 599 (1900).

What form of appeal is sufficient. U.S. Envelope Co. v. Vernon, 72 Conn. 329 (1899).

It is not necessary for defendant to claim penalty as to costs in his answer. Ives v. Goshen, 65 Conn. 456 (1895).

### Who is Aggrieved

Question of whether or not applicant for exemption has been aggrieved by action of board of tax review is judicial question and must be determined in the affirmative before power to grant relief is called into action by trial court. Hartford Hospital v. Board of Tax Review of City of Hartford, 158 Conn. 138 (1969).

A property owner who appeared before the board of tax review and received an adverse decision was "aggrieved" and could properly appeal. Lerner Shops of Connecticut, Inc. v. Town of Waterbury, 151 Conn. 79 (1963).

A taxpayer may properly be found to be an "aggrieved" person and as such be entitled to sue to protect his interest in any matter involving a municipality where his tax bill may be affected. Yale University v. City of New Haven, 22 Conn. Sup. 61 (1960).

Who is a person aggrieved. Resnik v. New Haven, 12 Conn. Sup. 47 (1943).

Taxpayer is not aggrieved where court finds property assessed at true and full value despite error in method of valuation. Slosberg v. Norwich, 115 Conn. 578 (1932).

One upon whose property the assessors put an excessive valuation, which the board erroneously refuses to reduce, is aggrieved. Underwood Typewriter Co. v. Hartford, 99 Conn. 329 (1923).

Taxpayer is not aggrieved unless the improper listing of his own or another person's property increases his tax. Ives v. Goshen, 65 Conn. 456 (1895).

### DEDUCTION FOR INDEBTEDNESS

Deduction for unsecured indebtedness considered. Skilton v. Colebrook, 76 Conn. 666 (1904).

## ERRORS AND OMISSIONS

Clerical omissions or mistakes do not include errors of substance. Reconstruction Finance Corp. v. Naugatuck, 136 Conn. 29 (1949).

No time limit for making correction. West Haven v. Aimes, 4 Conn. Sup. 391 (1937).

Assessors may be compelled by mandamus to list properly property omitted by the taxpayer. State v. Erickson, 104 Conn. 542 (1926).

Limitations on power to correct clerical errors or mistakes. Bridgeport Brass Co. v. Drew, 102 Conn. 206 (1925).

Omissions and mistakes in assessments can be taken advantage of only by those in whose lists they occur. Sanford v. Dick, 15 Conn. 447 (1843).

## EXEMPTION FROM TAXATION

### General

Statutes which exempt from taxation are to be strictly construed against part claiming exemption. Hartford Hospital v. Board of Tax Review of City of Hartford, 158 Conn. 138 (1969).

Exemption from taxation is equivalent of appropriation of public funds because the burden of the tax is lifted from the back of the potential taxpayer who is exempted, and shifted to the backs of others. Snyder v. Town of Newtown, 147 Conn. 374 (1960).

Where property has been legally assessed for taxation, the town has no power to release the taxpayer from portion of his tax if he is of ability to pay. State ex rel. Coe v. Fyler, 48 Conn. 145 (1880).

### Farmland

Where a corporation's principal income was from the operation of a loan and gravel business, which was found not to be a farming operation, the corporation is not qualified for benefits of \$3,000 tax exemption on its machinery. Holloway Bros., Inc. v. Town of Avon, 26 Conn. Sup. 160 (1965).

Under Section 12-91 of the General Statutes, exempting farm machinery, livestock and poultry from property tax under certain conditions, all livestock and poultry are exempt from tax when owned and kept in two or more towns within the state by a farmer, groups of farmers, partnership, or corporation otherwise qualified for exemption. 32 op. Atty. Gen. 123 (1962).

### Government Property

The federal government, not the manufacturer, was the "owner" of materials and tools on premise of the manufacturer, whose contract provided for transference of title to the government. Such property was not taxable under Section 12-58 of the General Statutes, but was exempt under Section 12-81, relating to taxation of property belonging to or held in trust for the United States. Consolidated Diesel Electric Corp. v. City of Stamford, 155 Conn. 33 (1968).

Even though the party is an admitted municipal corporation, its properties are not exempt from taxation unless devoted to public use. Properties belonging to specially chartered municipal corporation, which were for use only of members or their invitees, are not entitled to tax exemption. Laurel Beach Association v. Town of Milford, 148 Conn. 233 (1961).

Airport property owned by municipality but located in another town is exempt from taxation if the town in which the airport lies has the same privileges in using it as the municipality owning it and if the airport is not used in such a manner as to become a source of profit to the municipality. The exemption statute does not mean that profit in operations must be determined annually; the true test is whether the airport is being operated for the purpose of making money. Bridgeport v. Stratford, 142 Conn. 634 (1955).

National banks are agencies of the United States; their property and shares cannot be taxed by the state except as Congress consents. First National Bank & Trust Co. v. West Haven, 135 Conn. 191 (1948).

Political and territorial subdivision of a town is entitled to exemption from taxation under provisions of law exempting property belonging to municipal corporation and used for public purpose. Fenwick v. Old Saybrook, 133 Conn. 22 (1946).

### Hospitals and Charitable Organizations

Hospital had burden to file tax report, prior to July 1, 1966, for property claimed to be exempt in order to establish its right to exemption where exemption was denied the previous year. Where hospital failed to file report, assessor had no alternative but to continue such property on tax list. Hospital which had been denied tax exemption in 1965 and filed no report claiming exemption in 1966, was not aggrieved by actions of the assessor and board of tax review in including such property in city's list of taxable property. Hartford Hospital v. Board of Tax Review of City of Hartford, 158 Conn. 138 (1969).

It was not intended that hospital, without claiming exemption by filing tax report with assessor in succeeding year after claimed exemption was denied, be entitled to exemption, in lieu of appeal to the board of tax review and to the court of common pleas. Nor was it intended that hospital which acquired property, otherwise exempt, after filing its quadrennial report would be precluded from claiming an exemption for period of almost four years. Hartford Hospital v. Board of Tax Review of City of Hartford, 158 Conn. 138 (1969).

Section 12-81 of the General Statutes requiring that statement be filed in order to qualify for property tax exemption, and statute empowering assessors to examine tax exempt statements of scientific and other organizations in order to determine exemption eligibility do not apply to provisions of Sections 12-37 and 12-89, exempting property owned by hospitals from taxation. Hartford Hospital v. Board of Tax Review of City of Hartford, 158 Conn. 138 (1969).

Charitable uses and purposes for tax exemption are not restricted to mere relief of the destitute or the giving of alms, but comprehend activities not in themselves self-supporting but intended to improve the physical, mental, and moral condition of the recipients and make it less likely that they will become burdens on society, and embraces anything that tends to promote the well-doing and well-being of social man. Camp Isabella Freedman of Conn., Inc. v. Town of Canaan, 147 Conn. 510 (1960).

Tax exemption of charitable organizations is not restricted to property used for benefit of state residents. Camp Isabella Freedman of Connecticut, Inc. v. Town of Canaan, 147 Conn. 510 (1960).

Law does not intend to exempt any building earning money applicable to secular uses. Connecticut Spiritualistic Camp Meeting Association v. East Lyme, 54 Conn. 152 (1886).

## Veterans

Veterans who have suffered loss of an arm or leg in military service, or that which is considered by rules of the U.S. pension office or Bureau of War Risk Insurance as equivalent of such loss, and who have satisfied other requirements of statute granting disabled veterans a property tax exemption, are entitled to a \$3,000 exemption regardless of the percentage of disability rating accorded them. Murov v. Murray, 24 Conn. Sup. 147 (1962).

For purposes of application of tax exemptions provided for veterans under Section 12-81 of the General Statutes, qualified taxpayers do not have the right to compel assessors to apply the amount of exemption to either real or personal property. Assessors are empowered to exercise their discretion as public officers. 30 op. Atty. Gen. 189 (1958).

## LOCATION OF PROPERTY

In view of evidence that a vessel owned by a corporation was not located in either Hartford, where the assessment was made, or Essex, which the corporation claimed had situs of the vessel for at least seven months preceding the assessment date, the proper place of assessment was where the corporation's principal place of business was located or where it exercised its corporate powers as of the assessment date. Riverboat, Inc., v. City of Hartford, 26 Conn. Sup. 408 (1966).

A president and treasurer of corporation owning a vessel had the authority to sign tax assessment document on behalf of the corporation. The fact that it was not required to be signed in affidavit form did not vitiate its resulting effect on the plaintiff's tax status in regard to such property. Riverboat, Inc. v. City of Hartford, 26 Conn. Sup. 408 (1966).

Town's assessment of corporation's electrical computer system, which was located in the town for more than seven months preceding the assessment day, but which was not located in the state on the assessment day, was valid. The jurisdictional basis for assessment was provided by opportunities given the corporation and the protection afforded its property by the town. Philco Corp. v. Town of East Hartford, 26 Conn. Sup. 196 (1965).

Under statute providing for taxation of corporate personal property, "permanency" of stay of corporate property in the state involves the concept of being associated with the general mass of property in the state as contrasted with a transient status, and means a more or less permanent location for the time being, one test being whether the property in question is within the state for use and profit. Philco Corp. v. Town of East Hartford, 26 Conn. Sup. 196 (1965).

Where domestic corporation's tangible personal property was listed for taxation, it was not liable to taxation in any other town in state. Associated Grocers, Inc. v. City of New Haven, 147 Conn. 287 (1960).

Cooperative association of retail grocers, which bought groceries at wholesale for its members, carried on a trading or mercantile business that rendered its property subject to assessment in the name of the owner or owners in the town in which the business was carried on. Associated Grocers, Inc. v. City of New Haven, 147 Conn. 287 (1960).

## NON-RESIDENTS

Non-resident whose personal property is wrongly assessed waives no right by neglect to apply to board. New London v. Perkins, 87 Conn. 229 (1915); Lewis v. Eastford, 44 Conn. 477 (1877); Phelp v. Thurston, 47 Conn. 477 (1880).

## NOTICE OF HEARING

Provisions for notice of hearings are mandatory and constitute conditions precedent to valid assessment. Rocky Hill Incorporated District v. Rayon Corp., 122 Conn. 392 (1937). Cited. Reconstruction Finance Corp. v. Naugatuck, 136 Conn. 29 (1949); Cohn v. Hartford, 130 Conn. 699 (1944).

Appearance before board waives defect of notice. Comstock v. Waterford, 85 Conn. 6 (1911); Sanford's Appeal, 75 Conn. 590 (1903).

## RECOVERY OF TAXES

Manufacturing corporation relocating to another state on taxing date, which failed to avail itself of relief from claimed excessive assessments by statutory remedy, could not defend suit to collect taxes on ground that the property had been removed to another state where it became liable to that state's taxes. McCourt v. Anemostat Corp. of America, 25 Conn. Sup. 462 (1965).

Where person pays taxes illegally assessed against him, whether paid by compulsory process or not, he may recover the money. McCourt v. Anemostat Corp. of America, 25 Conn. Sup. 462 (1965).

Where plaintiff obtained all relief to which he was entitled, in judgment rendered under a first count in his complaint, he would not be granted recovery under a second count, even if his pleadings and proof would have supported a judgment under the second count. Lerner Shops of Connecticut, Inc. v. Town of Waterbury, 151 Conn. 79 (1963).

If board of tax review assessment is reduced by the court, it is proper to move for reimbursement for any overpayment of taxes. However, such motion should be filed before close of session in which the original judgment was rendered and within the time in which an appeal may be taken. Lerner Shops of Connecticut, Inc. v. Town of Waterbury, 151 Conn. 79 (1963).

Assessor's failure to list property in manner conforming to statutes will result in invalid assessment and prevent recovery of tax based on it. Empire Estates, Inc. v. City of Stamford, 147 Conn. 262 (1960).

If property owner, with knowledge of the facts, pays taxes voluntarily, he cannot recover them back even though they were in excess of what he should have been required to pay. Pitt v. Stamford, 117 Conn. 388 (1933). Cited. Cohn v. Hartford, 130 Conn. 699 (1944).

Taxpayer who, during pendency of application for relief, pays the tax assessed is entitled to return of any excess tax which he has paid, whether the payment be deemed voluntary or otherwise. The penalties and consequences imposed by law upon a non-paying taxpayer are such that it cannot fairly be said that he who pays a tax to avoid their onerous results does so voluntarily. Steiger, Inc. v. Hartford, 8 Conn. Sup. 295 (1940).

Liability to pay interest does not make payment of tax involuntary; recovery of money so paid not allowed. Verran Co. v. Stamford, 108 Conn. 47 (1928).

Property owner who voluntarily pays tax cannot recover the amount paid even though the act under which the tax was laid afterward turns out to be unconstitutional. However, if payment is made under protest and in order to avoid burdensome penalties prescribed by the act for its non-payment, such payment is not voluntary but one made under moral duress. Underwood Typewriter Co. v. Chamberlain, 92 Conn. 199 (1917).

Tax illegally assessed in part is illegal in toto, and the whole sum paid for such tax, if paid under duress, may be recovered. First Ecclesiastic Society v. Hartford, 38 Conn. 274 (1871).

## REVALUATION

Taxpayer not required to show special injury because statutory property revaluation had not been made within decade in order to be entitled to mandamus requiring revaluation, although the state's attorney could have, and probably should have, prosecuted the mandamus in his own name. State ex rel. Eastern Color Printing Co. v. Jenks, 150 Conn. 444 (1963).

Section 12-4 of the General Statutes, providing procedure by which the State Tax Commissioner can compel a municipal tax official's compliance with laws pertaining to discharge of office, does not provide exclusive remedy precluding mandamus by officers, but mandamus other than under statute is still available and could be maintained on relation of taxpayer to compel statutory revaluation. State ex rel. Eastern Color Printing Co. v. Jenks, 150 Conn. 444 (1963).

The West Hartford revaluation procedure, whereby a separate class of property is viewed, revalued, and recorded in the grand list in a single year, but all classes of property are viewed, revalued, and recorded within a ten-year period, is valid under Section 12-62 of the General Statutes. Op. Atty. Gen. (December 19, 1963), 25 CLJ No. 29, p. 13.

## RULE OF VALUATION

### Assessment Ratio

Assessment of property at fraction of actual value is violation of Section 12-63. Ingraham Co. v. Bristol, 144 Conn. 374 (1957). Overrules Randell v. Bridgeport, 63 Conn. 321 (1893).

Where assessors adopt rule of valuation conflicting with statute, remedy is by appeal to board of [tax review]. Monroe v. New Canaan, 43 Conn. 309 (1876).

### Capitalization of Income

The use value of farmland for purposes of taxation should be determined by capitalization of rents and the percentage normally used in determining final tax assessment should be applied to the use value. Bussa v. Town of Glastonbury, 28 Conn. Sup. 97 (1968).

How determined. Burritt Mutual Savings Bank v. New Britain, 20 Conn. Sup. 476 (1958). It is not erroneous to consider reproduction cost and capitalization of income as well as actual sales price in determining fair market value. Connecticut Savings Bank v. New Haven, 131 Conn. 575 (1945).

Capitalization discussed. Somers v. Meriden, 119 Conn. 5 (1936).

## **Market Value**

Taxpayers have burden to prove that assessor's valuation was not the true and actual value of their property. Determination of valuation of land is question of fact for trier of facts. Dickau v. Town of Glastonbury, 156 Conn. 437 (1968).

In computing value of machinery and inventory, construction in progress is to be valued at half cost and machinery withdrawn from use for disposal valued at estimated salvage. New Departure Division of General Motors Corp. v. Town and City of Bristol, 25 Conn. Sup. 37 (1964).

No arbitrary rule respecting point at which depreciation should be stopped in computing value to allow for inflation can be made without permitting taxpayer benefit of exceptions when he can demonstrate that a particular property has lower value. New Departure Division of General Motors Corp. v. Town and City of Bristol, 25 Conn. Sup. 37 (1964).

Evidence established that computation of value of taxpayer's machinery for personal property tax purposes by artificial mathematical process which employed a comparative equipment cost index, a method devised by professional appraisal firm and adopted by town assessors with adjustment for depreciation, resulted in unjust and illegal assessment which had no relationship to market value. New Departure Division of General Motors Corp. v. Town and City of Bristol, 25 Conn. Sup. 37 (1964).

Section 12-62 of the General Statutes providing that assessors shall view and revalue all property in the municipality during each ten-year period, is mandatory. It calls upon them to perform ministerial acts in obedience to such mandate without regard to or exercise of their own judgment on the propriety of the acts being done. State ex rel. Eastern Color Printing Co. v. Jenks, 150 Conn. 444 (1963).

Hydroelectric dams are not readily marketable as such, and, in ascertaining farm market value, it is proper to resort to other means of ascertaining true and natural valuation. Connecticut Light & Power Co. v. Town of Monroe, 149 Conn. 450 (1962).

Taxpayer appealing to Court of Common Pleas from board of tax review refusal to reduce property valuation had burden to satisfy Court of Common Pleas that assessors' valuation of land and buildings was not fair market value. Sheldon House Club, Inc. v. Town of Branford, 149 Conn. 28 (1961).

For tax assessment purposes, the expressions, actual valuation, actual value, market value, market price, and fair value, are synonymous. Sheldon House Clubs, Inc. v. Town of Branford, 149 Conn. 28 (1961).

Where cooperative association's merchandise was constantly in transition, assessed valuation of its fluctuating business inventory was value of average amount of goods kept on hand during the year prior to assessment date or during the portion of the year during which business was conducted. Associated Grocers, Inc. v. City of New Haven, 147 Conn. 287 (1960).

Proper procedure in questioning valuation of property. Cooley Chevrolet Co. v. West Haven, 146 Conn. 165 (1959).

Board in assessing commercial real estate found to have chosen an unrealistic annuity method of amortizing building costs and to have made unwarranted assumptions concerning management costs, stability of expenses, and income. Burritt Mutual Savings Bank v. New Britain, 20 Conn. Sup. 476 (1958).

Elements affecting fair market value. Bridgeport Hydraulic v. Stratford, 139 Conn. 388 (1953).

In determining market value, it is proper to consider all the elements which an owner could reasonably urge as affecting the fair price, including replacement costs when there are buildings. Thaw v. Fairfield, 132 Conn. 173 (1945).

History of statute. Connecticut Savings Bank v. New Haven, 131 Conn. 575 (1945).

If most recent sales in the same vicinity are of property held by a bank, they are not a fair criterion for fair market value. Resnick v. New Haven, 12 Conn. Sup. 47 (1943).

Cost of reproduction less depreciation is proper if there is no market value. Ethington v. Stamford, 11 Conn. Sup. 241 (1942).

There is no other method legal for assessment if there is a market value. Samson v. Hartford, 8 Conn. Sup. 540 (1940).

Property may be found to have market value in the absence of evidence of other sales of like property in the open market. Portland Silk Co. v. Middletown, 125 Conn. 172 (1939).

Valuation by owner placed in tax list is not a bar to reduction by the court on appeal. Crane Co. v. Bridgeport, 6 Conn. Sup. 203 (1938). Cited. Stamford Gas & Electric Co. v. Stamford, 6 Conn. Sup. 505 (1938).

Fair and actual value is not to be found at depression's bottom nor at prosperity's top; both are to be considered. Lomas & Nettleton Co. & P. J. McIntyre v. New Haven, 4 Conn. Sup. 69 (1936).

Where market value is not ascertainable, true and actual valuation must be determined by some other method. Lomas & Nettleton Co. v. Waterbury, 122 Conn. 228 (1936).

Methods for ascertaining market value. Arnold Schalet v. Westport, 1 Conn. Sup. 112 (1935).

True measure of loss to landowner where his property is taken for public use is the difference between market value of the whole tract before the taking and the market value of what remained thereafter and after completion of the public improvement. Heublein, Inc. v. Street Commissioners, 109 Conn. 212 (1929).

Statute does not apply unless there is no market. If no market exists, fair value must be ascertained otherwise. Underwood Typewriter Co. v. Hartford, 99 Conn. 329 (1923). Cited. Ford v. Dubiskie & Co., 105 Conn. 572 (1927); Bridgeport Brass Co. v. Drew, 102 Conn. 206 (1925).

There is no distinction in law between assessed and actual value of real estate. Dennis et al. Appeal. 72 Conn. 369 (1899).

Capital stock treated as asset instead of liability. Batterson et al. Appeal, 72 Conn. 374 (1899).

## SUPPLEMENTAL LISTS

Where mandamus is brought to compel board to add omitted property, it is defense that board, in exercise of honest discretion, had held the property to be not taxable. State ex rel. Foote v. Bartholomew, 111 Conn. 427 (1930).

Assessors cannot defend mandamus on ground that the board subsequently held property left out of list not taxable. State ex rel. Foote v. Bartholomew, 108 Conn. 246 (1928).

Board is not agent of the town under statute authorizing supplement list; its duties are administrative. Montgomery v. Branford, 107 Conn. 697 (1928).

Performance of duty to make supplemental list may be compelled by mandamus. State ex rel. Foote v. Bartholomew, 103 Conn. 607 (1925).

## TAX LIST

Foreign imports have constitutional immunity from state taxation until they are sold, removed from original package, or put to use for which they were imported, except that they are taxable if, committed for use in manufacturing they are required for current operational needs, which is measured by length of time necessary to replenish the supply. Emhart Corp. v. Town of West Hartford, 28 Conn. Sup. 154 (1969).

Owner would be entitled to tax relief if he could prove that his property was bearing a disproportionately high tax burden. Lerner Shops of Connecticut, Inc. v. Town of Waterbury, 151 Conn. 79 (1963).

Property of domestic corporation is subject to listing and taxation in same manner as property of individuals. Associated Grocers, Inc. v. City of New Haven, 147 Conn. 287 (1960).

Taxpayer who fails to submit complete list cannot complain if the assessors, acting in good faith, make error of judgment in listing and valuing his property. Ponemah Mills v. Lisbon, 89 Conn. 435 (1915). Cited. Cooley Chevrolet Co. v. West Haven, 146 Conn. 165 (1959).

Assessment is the total of all the taxable items; it does not follow that it is "manifestly excessive" because a single item is overvalued. Steiger, Inc. v. Hartford, 5 Conn. Sup. 467 (1937). Cited. Samson v. Hartford, 8 Conn. Sup. 540 (1940).

Duty of taxpayer to set forth separate description of each parcel of real estate on his list is not satisfied by use of such referential phrases as "property same as on last year's list." Wilcox v. Madison, 103 Conn. 149 (1925).

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